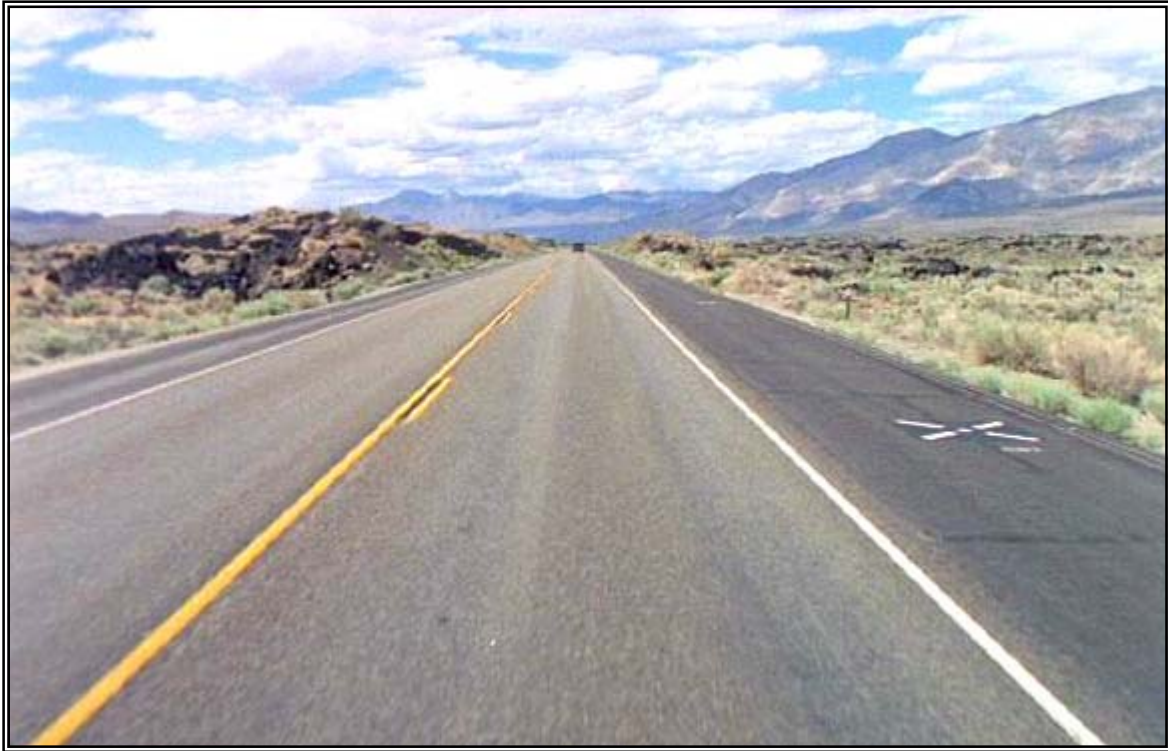


Black Rock Four-Lane Project



Environmental Assessment/Initial Study with a Finding of No Significant Impact and Negative Declaration

On U.S. Highway 395, from 0.5 kilometer north of North
Fork Road to 0.2 kilometer south of Elna Road,
in Inyo County near Independence, California

09-INY-395-124.4/147.4

(PM 77.3/91.6)

09-214600

May 2004



General Information About This Document

What's in this document?

This document contains an Environmental Assessment/Initial Study with a Finding of No Significant Impact and Negative Declaration, which examines the environmental effects of a proposed project to widen U.S. Highway 395 to four lanes near Independence, California.

The Environmental Assessment/Initial Study has been circulated to the public and an opportunity for a Public Hearing was made available. Responses to the circulation are shown in the Comments and Responses section at the end of this document.

What happens after this?

The proposed project is environmentally approved. When funding is approved, the California Department of Transportation and the Federal Highway Administration can design and construct all or part of the project.

09-INY-395-KP 124.4/147.4
(PM 77.3/91.6)
09-214600
SCH# 2003041030 |

Widen U.S. Highway 395 from two lanes to four lanes
from kilometer post 124.4 (post mile 77.3) to kilometer post 147.4 (post mile 91.6)
near Independence in Inyo County, California

ENVIRONMENTAL ASSESSMENT/ INITIAL STUDY

Submitted Pursuant to: (State) Division 13, Public Resources Code
(Federal) 42 USC 4332(2)(C)

U.S. DEPARTMENT OF TRANSPORTATION
Federal Highway Administration, and
THE STATE OF CALIFORNIA
Department of Transportation

March 3, 2003

Date of Approval

Mike Donahue

Mike Donahue
Branch Chief
Southern Sierra Analysis Branch
Central Region Environmental Planning
California Department of Transportation

3/18/03

Date of Approval

Gary N. Hamby
For
Gary N. Hamby
Division Administrator
Federal Highway Administration



Negative Declaration

Pursuant to: Division 13, Public Resources Code

Project Description

On U.S. Highway 395, from 0.5 kilometer north of North Fork Road to 0.2 kilometer south of Elna Road, in Inyo County near Independence, California, the California Department of Transportation (Caltrans) proposes to construct 23 kilometers (14.3 miles) of four-lane expressway from kilometer post 124.4 (post mile 77.3) to kilometer post 147.4 (post mile 91.6). The project would upgrade 23 kilometers (14.3 miles) of existing two-lane conventional highway and improve the level of service, safety, and drainage along that segment of the route.

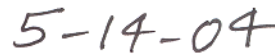
Determination

Caltrans has prepared an Initial Study, and determines from this study that the proposed project would not have a significant effect on the environment for the following reasons:

- The project would not increase floodplain or seismic hazards.
- There would be no significant effects on threatened or endangered species, nor to wetlands or riparian vegetation.
- The character and composition of traffic would not be affected.
- Impacts to cultural resources would be mitigated under the provisions of the Caltrans, Federal Highway Administration, and State Historic Preservation Officer Memorandum of Agreement.
- The project would have no significant effects upon business, industry, the economy, employment, agricultural resources, scenic resources, sensitive receptors, water quality, or air quality.
- The project would have no significant effect on land use, parklands, recreational facilities, community growth, neighborhoods, residences, or educational facilities.



Mike Donahue
Branch Chief, Southern Sierra Analysis Branch
Central Region Environmental Planning
California Department of Transportation




Date

**FEDERAL HIGHWAY ADMINISTRATION
FINDING OF NO SIGNIFICANT IMPACT
FOR**

**Black Rock Four-Lane Widening Project
On U.S. Highway 395
Inyo County, California**

The Federal Highway Administration (FHWA) has determined that this project will not have any significant impact on the human environment. This finding of no significant impact is based on the attached Environmental Assessment, which has been independently evaluated by the FIIWA and determined to adequately and accurately discuss the environmental issues and impacts of the proposed project. It provides sufficient evidence and analysis for determining that an environmental impact statement is not required. The FHWA takes full responsibility for the accuracy, scope, and content of the environmental assessment.

May 13, 2004
DATE


For
Gene K. Fong
Division Administrator
Federal Highway Administration

Summary

On U.S. Highway 395, from 0.5 kilometers north of North Fork Road to 0.2 kilometers south of Elna Road, in Inyo County near Independence, California, the California Department of Transportation (Caltrans) and the Federal Highway Administration propose to construct 23 kilometers (14.3 miles) of four-lane expressway from kilometer post 124.4 (post mile 77.3) to kilometer post 147.4 (post mile 91.6). Caltrans initiated this project, with the support of the Inyo County Local Transportation Commission. Essentially, this project would upgrade 23 kilometers (14.3 miles) of existing two-lane conventional highway to a four-lane expressway, improving route continuity. Currently, this two-lane segment lies between two four-lane stretches of U.S. Highway 395. This project would make the four lanes continuous.

Purpose and Need

U.S. Highway 395 is a vital transportation corridor connecting the Eastern Sierra region of California and Western Nevada to the Southern California metropolitan areas. Many goods and services arrive in the region via U.S. Highway 395 because there are no rail services there. Trucks comprise 17% of the traffic volume along the route, which is also heavily traveled by tourists.

With such heavy use and demand, the highway needs to be upgraded. At several locations, concrete headwalls and culvert pipe-ends create gaps within the shoulder recovery area. The clear recovery areas do not meet current standards at some locations due to high asphalt dikes, drainage structures, and high, steep slopes. Unpaved shoulders should be wider and free of obstructions throughout the project area.

The proposed project would improve the level of service of the roadway and would provide increased capacity to meet present and future traffic demands. A highway's level of service is rated from A through F, with A indicating traffic is flowing freely and F indicating traffic is severely congested or stopped. Caltrans identified a level of service of D for the existing highway. The level of service is expected to remain at level D in the year 2026 if no improvements are made. The proposed project would ease peak traffic congestion and backed-up traffic, remove passing restrictions, separate opposing traffic, and provide standard shoulders. The additional lanes would reduce the number of unsafe passing maneuvers that occur on this stretch of highway.

The proposed U.S. Highway 395 project would upgrade the existing two-lane conventional highway that now lies between two four-lane sections of U.S. Highway 395. The upgrade would make that entire stretch four lanes, improving route continuity.

Project Alternatives

Three alternatives are being considered for the U.S. Highway 395 Black Rock four-lane expressway project: two build alternatives and a no-build alternative. The build alternatives, Alternatives 1 and 2, propose to convert the two-lane conventional highway to a four-lane expressway by constructing two new southbound lanes west of the existing highway. Both Alternatives 1 and 2 could be built, for the most part, within the existing right-of-way, which ranges from 45.7 meters (150 feet) to 91.4 meters (300 feet) wide. Both build alternatives would require an additional 8.232 hectares (20.34 acres) of public land at the north end of the project area. No homes or businesses would be affected by either alternative.

The main difference between Alternatives 1 and 2 is the median width. Alternative 1 would include a 30.5-meter (100-foot) median; Alternative 2 would include an 18.6-meter (61-foot) median. Otherwise, Alternatives 1 and 2 are the same. Both build alternatives would connect to the existing U.S. Highway 395 four-lane expressway to the south and the existing four-lane expressway (Fish Springs) to the north.

No-Build Alternative

The No-Build Alternative does not meet the project's purpose and need to improve level of service, highway design features, and route continuity. This alternative would keep the roadway as it is.

Preferred Alternative (Alternative 1)

A project development team meeting was held on June 25, 2003 to select a preferred alternative for the project. In all, about 19 team members participated in reviewing the project information available. After evaluating the alternatives, the project development team recommended that the preferred alternative be Alternative 1: to construct the project with a 30.5-meter (100-foot) median throughout the limits.

It was determined that the wider median width of Alternative 1 is superior to the narrower median width of Alternative 2 because it allows for flexibility in balancing the project earthwork, reduces headlight glare, and matches the existing four-lane expressway's southbound lane configuration to the west. Alternative 1 would also accommodate Surface Transportation Assistance Act of 1982 trucks, reduce visual

impacts, further separate travel directions, provide larger staging areas during construction, and allow for safer cross-traffic movements. The environmental impacts associated with both Alternatives 1 and 2 are similar. Alternative 1 would adversely affect the same cultural sites as Alternative 2. Alternative 1 is the preferred alternative based on superior engineering and safety considerations.

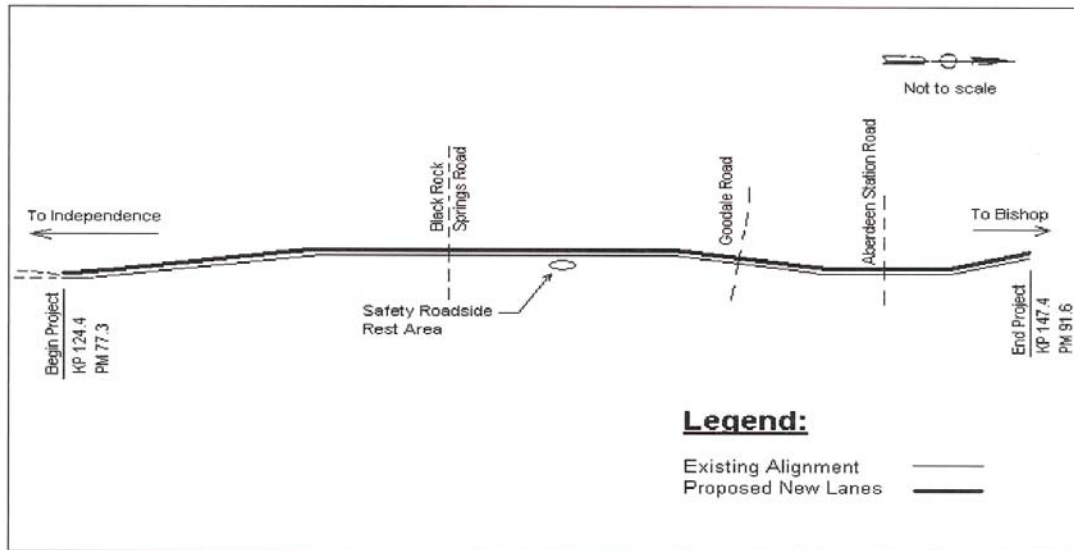


Figure A Build Alignments

Environmental Consequences and Mitigation

The impacts associated with Alternatives 1 and 2 are similar. The project alternatives' minimal impacts to non-wetland resources, visual resources, and the larger impacts to cultural resources would be mitigated as described in the following paragraphs.

Non-Wetland Resources

The proposed project crosses three streams (Taboose Creek, Division Creek and Goodale Creek) and two dry washes classified as non-wetland "other waters" of the U.S. according to the U.S. Army Corps of Engineers guidelines. There are no wetlands associated with this project. The project would temporarily affect 0.15 hectare (0.37 acre) and permanently affect 0.11 hectare (0.27 acre) of streambed to "other waters" of the U.S. These impacts would require Nationwide Permits #14 and/or Nationwide #33 according to U.S. Army Corps of Engineers regulations. In addition, riparian and streambed impacts associated with the project's three stream

crossings and two wash crossings would be mitigated in accordance with a California Department of Fish and Game 1601 Streambed Alteration Agreement. Riparian habitat associated with these crossings would be mitigated in accordance with the 1601 California Department of Fish and Game Streambed Alteration Agreement and in accordance with any required mitigation outlined in agreement with the U.S. Army Corps of Engineers Nationwide Permits. To compensate for any loss of habitat or value to the existing waterways and associated riparian vegetation, a combination of invasive species eradication, habitat enhancement, and preservation of existing habitat would be used. Riparian areas would be replanted in accordance with all agreements to be obtained prior to construction.

Biology

No direct or indirect impacts to any special-status species would be expected to result because of this project. Two distinct habitat types — desert saltbrush scrub and blackbush scrub — were identified in the project area. Approximately 68 hectares (168 acres) would be permanently disturbed, and 54 hectares (133 acres) would be temporarily disturbed. Caltrans' Standard Duff Provision would be applied to the proposed project area to lessen temporary and permanent impacts to natural vegetation. Areas of disturbance would be kept to the minimal area necessary to construct the project. A combination of stormwater pollution prevention procedures and construction best management practices would be used when applicable. Areas of temporary disturbance would be replanted using a combination of grass, shrub, and tree species native to the area.

Cultural Resources

Cultural resource studies for the proposed project identified 37 resources within the area of potential effects, including 30 archaeological sites, six historic resources, and one architectural resource. The State Historic Preservation Officer on November 13, 2002, determined that 17 archaeological sites were eligible for the National Register of Historic Places within the project Area of Potential Effects. Design considerations and establishment of Environmentally Sensitive Areas in the Area of Potential Effects boundary would prevent adverse effects to CA-INY-3796, CA-INY-5277, CA-INY-5278, CA-INY-5281, CA-INY-5285/H, CA-INY-5812H, CA-INY-5871, CA-INY-5874, CA-INY-5875, CA-INY-5876, and CA-INY-5884. The proposed project would adversely affect the remaining six sites, including CA-INY-5267, CA-INY-5273/H, CA-INY-5275/H, CA-INY-5276, CA-INY-5873/H, and CA-INY-5877. Project impacts to the six archaeological sites identified within the Area of Potential Effects total approximately 6.32 hectares (15.61 acres). The Federal Highway Administration

has made a Finding of Adverse Effect, with the concurrence of the State Historic Preservation Officer on October 29, 2003 (Appendix E). Mitigation for the effects to these sites would include 1) establishment of Environmentally Sensitive Areas; 2) data recovery mapping and excavations; 3) preparation of associated technical reports and studies; and 4) a public outreach effort.

Visual

The existing highway in the Black Rock area is part of a designated Scenic Highway. This visual quality is considered one of the area's greatest resources. The region's natural beauty is vital to the tourist industry and to the area's quality of life. The project would result in the loss and degradation of some lava rock outcroppings. Measures to protect selected rock groupings in place on slopes and in median areas (where feasible) would visually blend the project site into the local landscape. The project would also result in the loss of native vegetation. Measures to mitigate these losses include the replanting/seeding of indigenous plant species to maintain the natural character of the area. In addition, topsoil or "duff" would be removed from all newly graded areas, stockpiled and replaced on the finished grade to return the native seed stock to the disturbed area. Cuts and fills created by this project would be graded to blend with the surrounding landforms. Contour-grading and increased slope rounding at the top of cuts and bottom of fills would visually blend the project into the natural landscape.

Coordination

The U.S. Fish and Wildlife Service, California Department of Fish and Game, State Historic Preservation Officer, Native American Heritage Commission, and the U.S. Army Corp of Engineers were consulted during the environmental studies for the proposed project. Caltrans also coordinated with the U.S. Bureau of Land Management and the Los Angeles Department of Water and Power for activities associated with cultural resource mitigation.

Public Circulation and Comment

The draft environmental document was made available to the public for review and comment. A public notice announcing the availability of the document for review and an opportunity to request a public hearing was published on April 8, 2003 and May 13, 2003 in *The Inyo Register*, the newspaper serving the communities of Inyo County. The comment period ended May 21, 2003. Copies of the document were available at the county library in Independence, California. The document was also circulated to selected state agencies by the Office of Planning and Research and

distributed to local planning organizations; none of these recipients offered any comments. One letter was received from the Los Angeles Department of Water and Power (Figure 7.1). The department had no comments with respect to the environmental aspects of the Environmental Assessment/Initial Study, but wanted to be kept informed of design details due to the proximity of the department's facilities (creeks, wells, pipelines, etc.) to the proposed highway project. The comment was acknowledged and forwarded to the project engineers. Continuing coordination between Caltrans and the Los Angeles Department of Water and Power would ensure that all interests are met.

Permits

A permit from the California Department of Fish and Game would be required for a Section 1601 streambed alteration agreement, along with Nationwide 404 permits, #14 and #33, required from the U.S. Army Corps of Engineers. The California Regional Water Quality Control Board would have jurisdiction over construction activities adjacent to waterways under the Clean Water Act, Section 401.

A summary of potential impacts for each proposed alternative is provided below.

Table A Summary of Potential Impacts from Alternatives				
Potential Impacts		Alternative 1	Alternative 2	No Action
Relocation	Business Displacements	No	No	No
	Housing Displacements	No	No	No
	Utility Service Relocation	Yes	Yes	No
Air Quality		No	No	No
Noise		No	No	No
Waterways and Hydrologic systems		Yes	Yes	No
Water Quality		No	No	No
Floodplain		No	No	No
Threatened or endangered species		No	No	No
Historic and archaeological preservation		Yes	Yes	No
Hazardous waste sites		No	No	No
Visual		Yes	Yes	No
Construction		No	No	No



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List of Abbreviated Terms

Caltrans	California Department of Transportation
FHWA	Federal Highway Administration
km	Kilometer(s)
KP	Kilometer post
NEPA	National Environmental Policy Act
PM	Post mile



Chapter 1 Purpose and Need

1.1 Introduction

U.S. Highway 395 near Independence, California, experiences operating deficiencies. The existing two-lane highway does not provide adequate passing opportunities and does not have uniform shoulder widths, resulting in motorists making unsafe passing maneuvers. The high traffic volume of slow-moving commercial trucks and large recreational vehicles adds to the problem. The proposed project would improve the operation of the highway by expanding the road to four lanes, creating uniform shoulders throughout the project limits, and adding a median to separate traffic.

This project proposes to construct 23 kilometers (14.3 miles) of four-lane expressway from kilometer post 124.4 (post mile 77.3) to kilometer post 147.4 (post mile 91.6) on U.S. Highway 395, from 0.5 kilometer (0.3 mile) north of North Fork Road to 0.2 kilometer (0.1 mile) south of Elna Road, in Inyo County near Independence (see Figures 1-1 and 1-2). Caltrans initiated this project, with the support of the Inyo County Local Transportation Commission.

When this portion of the highway was realigned in 1965, right-of-way was acquired with the expectation of building a four-lane divided expressway in the future. This project, which would build the four-lane divided expressway, was included in the 2002 Federal Transportation Improvement Program under Inyo County's Regional Transportation Improvement Program. The proposed project would essentially upgrade 23 kilometers (14.3 miles) of existing two-lane conventional highway to improve the road's level of service, operations, and drainage. The cost of the project is estimated at \$28,371,000 which includes \$28,061,000 for construction and \$310,000 for right-of-way and utility relocation. The project would be funded from the State Regional Improvement Program in the 2006/07 fiscal year.

Three alternatives are being considered for this project: two build alternatives (Alternatives 1 and 2) and a no-build alternative (Alternative 3). Alternative 1 would add two additional lanes to U.S. Highway 395 for southbound traffic and reconstruct the existing roadway for northbound traffic. The roadways would be separated by a 30.5-meter (100-foot) median. Alternative 2 is the same as Alternative 1, except that it would have an 18.6-meter (61-foot) median.

This project would connect the existing four-lane stretch of roadway at the southern end of the proposed project with the Fish Springs four-lane project to the north to make a continuous four-lane stretch of road.

1.2 Project Background

U.S. Highway 395, once known as the Three Flags Highway, originally crossed the United States from the Mexican border to the Canadian border. In the late 1920s, the roadway was straightened, graded and surfaced with oiled rock pavement. A typical section was a 10.8-meter-wide (36-foot-wide) graded roadbed with 6 meters (20 feet) of oiled surface. In the 1930s and 1940s, the road was widened to 6.6 meters (22 feet) with plant-mixed surfacing and 2.4-meter (8-foot) dirt shoulders. Over the years, the lanes have been widened to 3.6 meters (12 feet), the alignment has been modified, and various sections have been converted to four lanes.

U.S. Highway 395 is a vital transportation corridor connecting the Eastern Sierra region of California and Western Nevada to the Southern California metropolitan areas. It also provides a critical connection to Western Nevada as well as the interior Northwestern U.S. by way of Highway 6. Many goods and services arrive via U.S. Highway 395 because no rail services exist in the area. The highway is part the Subsystem of Highways for the Movement of Extra Legal Permit Loads and is a federal Surface Transportation Assistance Act route that authorizes use for larger trucks and gives them access to facilities off the route.

U.S. Highway 395 is functionally classified as a “rural principal arterial” and is included in the Federal Aid Primary highway system. It is also included in the State Freeway and Expressway System, and the State Scenic Highway Master Plan. This route is also considered a “high emphasis route” as part of the Interregional Road System and connects transportation systems across four states.

Because of its location, this highway also facilitates tourism. According to a 2000 Origin-Destination Study in Inyo and Mono counties for U.S. Highway 395 conducted by Caltrans, 55 % of the traffic traveled for recreation purposes and 36 % of all vehicles coming into the Eastern Sierra originated from Southern California. The average occupancy rate per vehicle during the survey was 2.18.

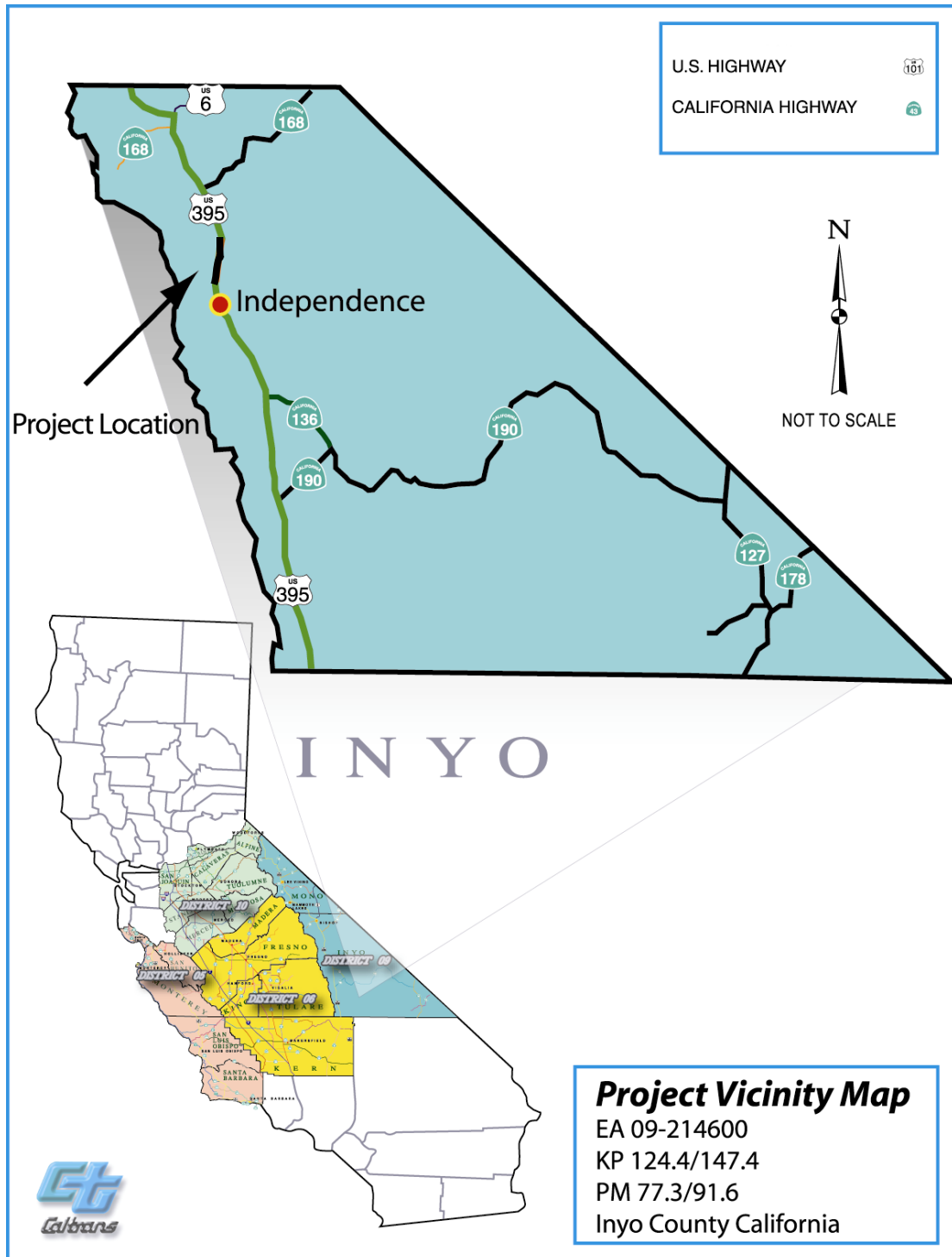


Figure 1.1 Project Vicinity Map



Figure 1.2 Project Location Map

Within the project limits, the existing highway lies on flat, gently rolling terrain at elevations ranging from 1,170 meters (3,839 feet) to 1,220 meters (4,003 feet). In 1958, the roadway was realigned from kilometer post 122.0 (post mile 75.8) to kilometer post 126.2 (post mile 78.4). In 1965, the roadway was realigned from kilometer post 126.2 (post mile 78.4) to kilometer post 142 (post mile 88.5). The roadway was constructed on an alignment bypassing the town of Aberdeen for the purpose of future construction of a four-lane expressway. Right-of-way for future expansion to the west was also purchased at that time. As a result, there is sufficient right-of-way for 17 kilometers (10.5 miles) of the proposed 23-kilometer (14.3-mile) improvement.

1.3 Project Description

The Caltrans District 9 System Management Plan identifies U.S. Highway 395 as one of two major transportation corridors in the district. Alternatives 1 and 2 would comply with the plan's goal to "continue upgrading the Route 14/395 corridor to a four-lane facility." Both build alternatives are consistent with the May 2000 U.S. 395 Transportation Concept Report, which designates a four-lane expressway as both the concept and the ultimate facility for this segment of U.S. Highway 395. If this project were completed, there would be a continuous four-lane segment from kilometer post 122.5 (post mile 76.1) in Inyo County to kilometer post 85.0 (post mile 52.8) just north of Lee Vining in Mono County, a total length of 170.9 kilometers (106.2 miles). The proposed project is consistent with the Inyo County Regional Transportation Plan.

The existing roadbed consists of a two-lane, 7.3-meter-wide (24-foot-wide) road with varying shoulder widths up to kilometer post 146.6 (post mile 91.1). From that point north, the highway transitions into a newly constructed four-lane expressway that proceeds into Big Pine, California, with standard 3-meter (10-foot) shoulders. From kilometer post 124.4 (post mile 77.3) to kilometer post 126.2 (post mile 78.4) and from kilometer post 144.6 (post mile 89.9) to kilometer post 146.6 (post mile 91.1), the existing paved shoulder widths measure 1.2 meters (4 feet). The shoulder widths for the remaining portion are 2.4 meters (8 feet) for the southbound shoulder and 3 meters (10 feet) for the northbound shoulder. At several locations, concrete headwalls and culvert pipe-ends create gaps within the shoulder recovery area. The clear recovery area does not meet current standards at some locations due to high asphalt dikes, drainage structures, and high, steep slopes. Construction of the proposed

project would create a four-lane highway with uniform shoulder widths complying with current highway design standards.

1.3.1 Traffic Volumes

Highways 14 and 395 are the major elements of a transportation corridor connecting Southern California with Eastern Sierra recreation areas. According to a 2000 Origin and Destination Study conducted by Caltrans, 55% of the traffic traveled for recreational purposes and 36% of all vehicles coming into the Eastern Sierra region originated in Southern California. These high percentages indicate why peak traffic periods correlate with three-day holidays and not commute periods. The “normal” weekday traffic is steady, but light. Some minor peaks are noted from commuters who work in Inyo County (for instance, in Independence), but reside in Bishop. Summaries of the various current and projected traffic data are presented in Table 1.1, based on 2001 traffic volume counts. The future traffic volumes are based on a growth rate of 1% per year.

Table 1.1 Traffic Data for U.S. Highway 395

Average Annual Daily Traffic	Current Year (2001)	Construction Start (2006)	Construction Complete (2008)	20-Year (2026)
Number of vehicles per day	6300	6820	6960	8320
Percentage of trucks	16.6	16.6	16.6	16.6

According to the data in Table 1.1, increasing traffic volumes can be expected on U.S. Highway 395 well into the future.

1.3.2 Level of Service

Level of service is a measure of how free or constrained traffic travels along a road segment or through an intersection. For two-lane rural highways, level of service is determined in terms of percent of time spent following and average travel speed. A four-lane determination is based on a combination of factors including maximum density, average speed, maximum volume to capacity ratio and maximum service flow rate. A level of service rating ranges from A, indicating free-flowing traffic, to

F, indicating extremely congested traffic. An F indicates substantial congestion with traffic demand exceeding capacity.

A September 2002 study conducted by Caltrans identified the current level of service for the proposed project segment as D (Figure 1.3). The level of service is expected to remain at D or deteriorate further if no improvements are made. Construction of either Alternative 1 or 2 would improve this segment of highway to the desired level of service A (Figure 1.4). Current and projected levels of service are presented in Table 1.2.

Table 1.2 Level of Service for U.S. Highway 395

Level of Service	2001	2006	2026
LOS for the segment, with no improvements made	D	D	D
LOS with the road upgraded to a 4-Lane Expressway	--	A	A

*Note: LOS calculations based on 30th highest hourly traffic volume

1.3.3 Safety Issues

At times, the existing roadway carries more traffic than it is designed to carry and operates at a reduced level of service. This is especially evident during weekends and holidays when traffic volumes are extremely heavy. Traffic starts to back up, and a slow-moving trail of vehicles seemingly increase travel time. Drivers become frustrated, and they attempt unsafe passing maneuvers. A factor contributing to the situation is the high volume of recreational vehicles (3.2%) and trucks (16.6%) using the route.

Because of the rural nature of the region, drivers of passenger cars tend to travel at a high rate of speed along the route. But trucks and recreational vehicles cannot always keep up with those drivers, so traffic starts to “queue” (line up) behind the larger, slower-moving vehicles traveling in the same direction in the same lane. The faster cars want to pass, but barrier striping prohibits passing through 25% of the project limits. In areas without barrier striping, passing opportunities are further restricted by the high traffic volumes for a two-lane highway. The long travel time and its cumulative effects on driver fatigue and behavior in dealing with the congestion results in frustrated drivers attempting unsafe maneuvers. Upgrading the existing two-

lane conventional highway to a four-lane expressway would help alleviate the problems associated with traffic queuing.

Accident information is summarized in Table 1.3. The Traffic Accident and Survey Analysis System and Table B (an accident data sheet provided by the Caltrans traffic investigation section) indicated that 28 accidents occurred in this portion of U.S. Highway 395 during a three-year period ending March 31, 2002. The traffic information showed a total accident rate (0.31) below the statewide average rate (0.60) for a similar facility.

Table 1.3 Three-Year TASAS Table - Ending March 31, 2002

Type and Number of Accidents		Accident Rate/Million Vehicle Miles		
Fatal	6		Actual	Statewide Average
Injury	12	Fatal	0.066	0.035
Property Damage Only	10	Fatal+Injury	0.20	0.31
Total	28	Total	0.31	0.60

TASAS = Traffic Accident and Survey Analysis System

In this three-year period, there were six fatal accidents in the project area resulting in eight persons killed. The fatal accident rate for this stretch of U.S. Highway 395 is 1.9 times higher than the statewide average. The main causes of the accidents were as follows: 29% improper turning, 21% falling asleep, 7% failure to yield, 7% influence of alcohol, 4% other than driver, 4% speeding. There were three head-on collisions, all of which resulted in fatalities.







Of the 28 total accidents, 23 (82%) were accidents that involved a vehicle crossing the roadway centerline. Cross-centerline accidents all have the potential for collisions with opposing vehicles. Of the 23 cross-centerline accidents, 10 (43%) resulted in collisions with another vehicle. Four out of the six fatal accidents, nine out of the 12 injury accidents, and 10 out of the 10 property-damage-only accidents involved vehicles crossing the centerline. Summarizing the total persons killed and injured in these accidents, there were five (63%) out of a total of eight persons killed and 26 (59%) out of a total of 44 persons injured in accidents involving vehicles crossing the roadway centerline. Cross-centerline-type accidents have the highest contribution to both fatal and injury accidents in this section of highway.

Of the 28 total accidents, 18 (62%) were caused by or resulted in a vehicle leaving the pavement. Fourteen out of the 18 accidents (78%) were single-vehicle accidents.

Seven out of the 14 (50%) single-vehicle accidents were either fatal or injury accidents. Of the 18 accidents involving a vehicle leaving the pavement, 12 vehicles overturned and 11 vehicles struck an object off of the roadway.







Both Alternatives 1 and 2 would substantially reduce the accident rate for this segment of U.S. Highway 395. Having two lanes for each direction of travel would allow fast-moving traffic to safely pass slow-moving trucks and recreational vehicles. Head-on collisions would be drastically reduced, if not totally eliminated, by constructing a new roadway with a median separating the northbound and southbound lanes. Flattening embankment slopes and creating a wider roadside area would reduce rollover-type accidents.

The proposed project would improve the level of service of the roadway by increasing capacity to meet present and future traffic demands. It would also ease peak traffic congestion and queuing, remove passing restrictions, separate northbound and southbound traffic, and provide emergency parking areas on the side of the road. Widening the roadway to four lanes, adding a median and widening the shoulders would provide added room for emergency maneuvering and errant driver recovery.

<h1>LEVELS OF SERVICE</h1> <p>for Two-Lane Highways</p>			
Level of Service	Flow Conditions	Operating Speed (mph)	Technical Descriptions
A		55+	Highest quality of service. Free traffic flow with few restrictions on maneuverability or speed. No delays
B		50	Stable traffic flow. Speed becoming slightly restricted. Low restriction on maneuverability. No delays
C		45	Stable traffic flow, but less freedom to select speed, change lanes or pass. Minimal delays
D		40	Traffic flow becoming unstable. Speeds subject to sudden change. Passing is difficult. Minimal delays
E		35	Unstable traffic flow. Speeds change quickly and maneuverability is low. Significant delays
F			Heavily congested traffic. Demand exceeds capacity and speeds vary greatly. Considerable delays

Source: 2000 HCM, Exhibit 20-2, LOS Criteria for Two-Lane Highways in Class 1

Figure 1.3 Level of Service Chart for Two-lane Highway

<h1>LEVELS OF SERVICE</h1> <p>for Multi-Lane Highways</p>			
Level of Service	Flow Conditions	Operating Speed (mph)	Technical Descriptions
A		60	Highest level of service. Traffic flows freely with little or no restrictions on maneuverability. No delays
B		60	Traffic flows freely, but drivers have slightly less freedom to maneuver. No delays
C		60	Density becomes noticeable with ability to maneuver limited by other vehicles. Minimal delays
D		57	Speed and ability to maneuver is severely restricted by increasing density of vehicles. Minimal delays
E		55	Unstable traffic flow. Speeds vary greatly and are unpredictable. Minimal delays
F		<55	Traffic flow is unstable, with brief periods of movement followed by forced stops. Significant delays

Source: 2000 HCM, Exhibit 21-3, Speed-Flow Curves with LOS Criteria for Multi-Lane Highways

Figure 1.4 Level of Service Chart for Multi-lane Highway



Chapter 2 Alternatives

2.1 Alternative Development Process

Three alternatives were developed for the proposed project. Alternatives 1 and 2, the build alternatives, propose to convert the conventional two-lane highway to a four-lane expressway. Alternative 3 is the No-Build Alternative.

When this portion of the highway was realigned in 1965, right-of-way was acquired with the expectation of building a four-lane divided expressway to the west. As a result, there is sufficient right-of-way for 17 kilometers (10.6 miles) of the proposed 23-kilometer (14.3-mile) project.

The Caltrans District 9 Park and Ride Coordinator has recommended that Park and Ride facilities not be included in this project because there is little local traffic. Although bicycle travel is allowed on this portion of U.S. Highway 395, there are no dedicated bike lanes and there are no future plans to provide them. Bicycle touring is becoming increasingly popular along U.S. Highway 395 and it would be enhanced with the construction of 3.0-meter (9.8-foot) outside shoulders.

2.2 Alternatives Considered and Eliminated

2.2.1 Build Alternatives—East of Existing Alignment

Alternatives to the east of the existing alignment were determined non-viable because of environmental, engineering, and cost considerations. For a large portion of the study limits, sufficient right-of-way already existed west of the roadway.

Construction of lanes to the east would encounter large areas of unsuitable building material near the northern limits of the study area. Constructing to the east is not feasible for the following reasons:

1. The new southbound lanes of the Fish Springs Four-Lane project, directly north of the proposed project, were constructed to the west. The existing two-lane northbound/southbound highway within the project limits is on the same tangent as the new northbound lanes of the Fish Springs project. Widening to the east would introduce two more horizontal curves for the new northbound Black Rock lanes to transition to the existing northbound Fish Springs lanes. The addition of

more horizontal curves would reduce the route continuity of the highway and create an additional hazard.

2. The existing four-lane sections of road, south of the proposed Black Rock project, are generally west of the existing two-lane section of Black Rock project.
3. The exit and entrance ramps and the parking area at the Division Creek Rest Area would have to be reconstructed if the new lanes were constructed at a 30.5-meter (100-foot) offset to the east. If the lanes go to the west, only new deceleration/acceleration lanes and a median crossover need to be constructed.
4. The highway drainage created with the 1965 realignment has proven to be adequate. Widening to the west would continue the existing drainage courses; widening to the east would alter some of the drainage characteristics.
5. The entire project vicinity has a very high density of archaeological sites, making it virtually impossible to avoid affecting archaeological resources altogether. Review of survey maps in the earliest stages of project design revealed a slightly higher density of prehistoric archaeological sites to the east of the existing alignment. This was probably due to these eastern areas being closer to the Owens River, which served as the focal point of prehistoric settlement of the region. In addition, these sites appeared to be generally larger and more complex, probably representing residential locations (i.e., camps and villages), rather than areas used short-term for resource collecting and processing. Residential sites have a greater likelihood of containing scientifically important features, such as a housepit and hearths as well as human remains, which often have additional cultural and spiritual values for modern Native American communities.

2.2.2 All-Paved Four Lane

The all-paved alternative would have consisted of four 3.6-meter (12-foot) lanes, with northbound and southbound lanes separated by at least a 6.6-meter (22-foot) median and 3-meter (10-foot) outside shoulders in order to satisfy current expressway standards for a rural location. The minimum median width for an expressway is 18.6 meters (61 feet), paved or unpaved. Having a 6.6-meter (22-foot) median would require unjustifiable mandatory and advisory design exceptions. The road would not meet state or federal standards for a rural expressway. The costs for this alternative would be higher than that of a divided highway, and it would not correct all of the deficiencies of the existing highway as effectively as a divided roadway would.

There are no discernible cost savings realized in right-of-way acquisition or construction cost compared to the two proposed build alternatives. While the earthwork would be less for an all-paved roadway, the cost of the structural section would be higher because of the added paved width and the additional asphalt leveling needed to move the crown of the roadway.

Furthermore, the accident potential on all-paved, undivided, two-way highways is higher than on divided highways with wide medians. Oncoming traffic would be closer; maintenance in the median would be more difficult and unsafe. An all-paved roadway would not be aesthetically pleasing within the Owens Valley. The highway would not have transitioned into the existing four-lane sections to the north and south without adding additional horizontal curves. Due to its estimated higher cost and higher accident potential, this alternative was not considered a viable alternative.

2.3 Alternatives Selected for Detailed Study

Three project alternatives were evaluated for this environmental document: Alternatives 1 and 2, which propose to convert the conventional two-lane highway to a four-lane expressway and differ only by median width, and Alternative 3, the No-Build Alternative.

2.4 Project Alternatives

Final selection of an alternative will not be made until after the full evaluation of environmental impacts and full consideration of public hearing comments.

2.4.1 Alternative 1

Alternative 1 proposes to increase the existing highway to a four-lane expressway by constructing two new southbound lanes west of the existing alignment, from kilometer posts 124.4 to 147.4 (post miles 77.3 to 91.6). See Figure 2-1 for a cross-section view of this alternative.

The existing lanes would be rehabilitated and used as northbound lanes. Improvements to the existing roadbed from kilometer posts 124.4 to 126.2 (post miles 77.3 to 78.4) and kilometer posts 144.6 to 146.6 (post miles 89.9 to 91.1) would consist of resurfacing and widening the shoulders to current standards. The roadway

cross-slope and embankment slopes would be upgraded as needed throughout the length of the project.

New southbound lanes would be constructed parallel to the existing alignment with a 30.5-meter (100-foot) median. The typical cross-section would consist of two 3.6-meter (12-foot) travel lanes, 1.5-meter (5-foot) left shoulder and 3.0-meter (10-foot) right shoulder (see Figure 2-1). The existing right-of-way is adequate from kilometer posts 126.2 to 143.7 (post miles 78.4 to 89.3). Some right-of-way would be required outside these limits. This alternative would comply with the route concept of a four-lane, divided, access-controlled expressway.

Three intersections along this segment of U.S. Highway 395 connect with county roads. Several intersections along the existing highway would need to be realigned to provide improved roadway connections. Existing drainage crossings would need to be extended in the areas of shoulder widening. Sufficient right-of-way would be acquired in those locations for the improvements and also to accommodate future maintenance of the facilities. The current county roads would provide crossover medians connecting north and southbound traffic.

Within the project limits is an affected utility: an underground Verizon (GTE) telephone fiber-optic cable located west of the highway. Verizon plans to relocate its cable east of the highway. The line would eventually cross the highway from east to west at a location just north of the Aberdeen Station Road connection.

Estimated costs for Alternative 1 are as follows: \$28,061,000 for roadway items; \$60,000 for expected right-of-way acquisition; and \$250,000 for required utility relocation. Total combined costs are estimated at \$28,371,000 for Alternative 1.

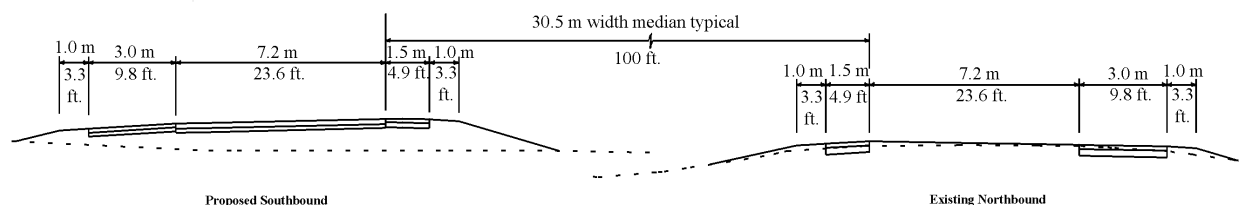


Figure 2.1 Proposed Typical Cross-Section: Alternative 1

2.4.2 Alternative 2

This alternative proposes constructing a divided four-lane expressway in the same way described under Alternative 1, but the median separation would be the minimum 18.6 meters (61 feet) as required by the Caltrans Design Manual, instead of 30.5 meters (100 feet) (see Figure 2-2).

Estimated costs for Alternative 2 are as follows: \$28,644,000 for roadway items; \$60,000 for expected right-of-way acquisition; and \$250,000 for required utility relocation. Total combined costs are estimated at \$28,954,000 for Alternative 2.

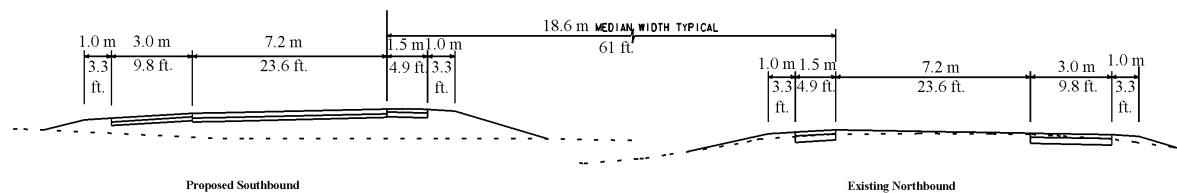


Figure 2.2 Proposed Typical Cross-Section: Alternative 2

2.4.3 No Action Alternative

Alternative 3 is the “no build” alternative, which would keep the roadway as it is. The No Build Alternative is not considered a viable alternative because there would be no relief from existing deficiencies.

2.4.4 Preferred Alternative

Alternative 1 is the preferred alternative. A project development team meeting was held on June 25, 2003 to recommend a preferred alternative for the project. In all, about 19 team members participated in reviewing the project information available. After evaluating the alternatives, the project development team recommended that the preferred alternative be Alternative 1—to construct the project with a 30.5-meter (100-foot) median throughout the limits.

This alternative is essentially the same as Alternative 2, but allows for 30.5-meter (100-foot) medians, which are 12 meters (39 feet) wider than the medians used in Alternative 2. Alternative 1 was chosen over Alternative 2 for various reasons. The wider median also allows for safer movements of cross-traffic on intersecting county roads, by providing a temporary holding space for trucks and large recreational vehicles (Alternative 2 does not provide this space). Besides not featuring the

engineering and safety drawbacks listed below for Alternative 2, Alternative 1 would be safer to construct, as the wider median affords larger staging areas during construction.

Environmental impacts associated with both Alternatives 1 and 2 are similar. Alternative 2 would adversely affect the same cultural sites explained in Section 3.6 as Alternative 1 would, but also has several disadvantages from engineering and safety standpoints:

1. U.S. Highway 395 is part of the Subsystem of Highways for the Movement of Extra Legal Permit Loads and is a federal Surface Transportation Assistance Act route that authorizes use for larger trucks and gives them access to facilities off the route. A Surface Transportation Assistance Act-designed vehicle would encroach into the inside shoulders of the highway when making a turn into the narrower median space. The narrower median is not ideal for stretches of highway with numerous road intersections, as the turning lanes associated with these intersections are difficult to accommodate safely.
2. The narrower median complicates balancing the earthwork for the project, increases headlight glare, and increases the likelihood of head-on collisions. Traffic data suggests that drivers who had fallen asleep at the wheel caused 21 percent of the accidents occurring during a three-year period ending March 31, 2002. The wider median of Alternative 1 would provide additional traffic separation.
3. Alternative 2 would fail to match up to an existing four-lane facility to the north that contains a 30.5-meter (100-foot) median and a four-lane facility to the south proposing a 30.5-meter (100-foot) median. Curves would need to be added to facilitate the transitions between highway projects. Such curves would disrupt the otherwise straight segment of U.S. Highway 395 within this portion of Inyo County.
4. Alternative 2 would decrease the design flexibility afforded by a wider median when dealing with physical impacts to the project limits detailed in Section 3.1 and Section 3.3.1.2. Visual impacts and impacts to the Botanical Management Area can be reduced by preserving much of the natural vegetation and rock outcroppings within the median.

Alternative 3, the “no-build” alternative, would leave U.S. Highway 395 in its present condition. This alternative would not provide the upgrades needed to improve traffic operations, with the attendant benefits of improved safety and increased regional transport.



Chapter 3 Environmental Impacts and Mitigation

This chapter describes the existing environmental setting of the project area. A “project study area” has been drawn to identify the geographic limits of the potential direct and indirect effects of the proposed project, particularly for visual and cultural resources. This study area encompasses both build alternatives.

The designs of the two build alternatives are very similar, differing only in median width and cost. As far as the physical ground disturbance expected from the construction activities is concerned, both build alternatives would create similar physical impacts within the project study area. Therefore, impacts resulting from the proposed project have been referenced to the project study area rather than the individual build alternatives.

3.1 Visual

3.1.1 Affected Environment

U.S. Highway 395 in the Black Rock area is part of a designated Scenic Highway. This visual quality is considered one of the area’s greatest resources. The natural beauty of the region is not only vital to the tourist industry, but to the local quality of life.

3.1.2 Impacts

The visual sensitivity of a region depends on the visibility of the area and its “landscape character.” The valley landscape is subordinate to the dynamic value of the surrounding views, but it provides a valuable changing texture for the motorist traveling the highway. The landscape can also provide opportunities for the public to stop briefly to enjoy the character of the natural landscape.

The construction of an additional two-lane roadway would not obviously degrade the existing views. Offsite views of the project area would be affected because of construction and the loss of vegetation and elements of landscape character. In addition, the project would result in the loss and degradation of some lava rock (Black Rock) outcroppings. Measures to protect selected rock groupings on slopes

and in median areas (where feasible) should help to blend the project site into the local landscape and maintain a natural setting.

3.1.3 Mitigation

This project would result in the loss of native vegetation. Measures recommended to mitigate these losses would include replanting/seeding indigenous plant species to maintain the natural character of the area. In addition, topsoil or “duff” would be removed from all newly graded areas, stockpiled and replaced on the finished grade to return the native seed stock to the disturbed areas.

Cuts and fills created by this project would be graded to blend with the surrounding landforms. Contour-grading and increased slope rounding at the top of cuts and bottom of fills would visually blend the project into the natural landscape. Slopes would have a rolling surface without sharp edges, and the slope would be left with a rough texture to promote faster vegetation growth and reduce erosion. Slope gradients of 3 to 1 or flatter would be used to allow moisture to be absorbed and to slow runoff.

Grading and erosion control mitigation with native seeds and wildflowers, applied during construction, would promote the establishment of a strong stand of native vegetation. Along with preserving some of the native rock outcroppings, these measures should return the visual character of the landscape back to its original natural quality.

3.2 Air Quality

3.2.1 Affected Environment

The proposed project lies within the Great Basin Unified Air Pollution Control District, which has headquarters in Bishop, California. Data obtained from the control district indicates the overall air quality in this region is very good. The only known parameter that occasionally exceeds state and federal standards are particulates, called PM-10 and/or PM-2.5. The sources of this particulate matter are areas along the Owens River and/or from Owens Lake (dry), several miles south of the project limits, especially when winds exceed 10 miles per hour. These particulates can create health hazards for residents many miles north and south of the source.

3.2.2 Impacts

With the exception of PM-10, the area within Inyo County fully conforms to both state and federal air quality standards. The Great Basin Unified Air Pollution Control District has prepared a plan to control PM-10. Inyo County's Regional Transportation Plan, accompanied by an approved Environmental Impact Statement, lists the Black Rock Four-Lane project as meeting all regional air quality standards.

Qualitative consideration was given to the proposed project's affect on existing and new PM-10 violations at the microscale level. Given the build alternatives' characteristics and location as well as regional efforts and plans to attain the PM-10 standard, the project would not worsen any existing PM-10 violation or create a new PM-10 violation. The project itself would not be expected to result in increased vehicle trips, but rather would re-distribute those vehicle trips that would be generated in any event along the U.S. Highway 395 corridor to Bishop. Also, the project would not affect overall vehicle miles traveled because the distance associated with the proposed project would parallel an existing stretch of U.S. Highway 395 that transitions into existing four-lane roads to the north and south. Vehicle miles traveled are not expected to increase as a result of the proposed project.

A short-term, microscale air quality impact from nuisance dust could result from construction-related activities. Nuisance dust is defined as "larger than PM-10" and usually is not considered a health concern. However, nuisance dust can create safety concerns for the traveling public. Enforcement of the dust controls as specified in the Caltrans Standard Specifications, Sections 17 and 18, would minimize these concerns and reduce the potential for short-term visibility problems.

Based on similar Caltrans projects, carbon monoxide levels would increase less than 1 part per million, which correlates directly to "normal" traffic growth and not to the roadway improvement itself. Therefore, a full air study is not required for this project.

It is important to note there are no permanent receptors near this project. All abutting property is currently under public ownership and the likelihood of any new improvements or receptors in the foreseeable future is low.

Therefore, there would be no long-term impacts to air quality if this project were constructed. Vegetation of all newly disturbed dirt areas on this project would eliminate any long-term increases to the regional levels of nuisance dust. Short-term increases in particulate matter and nuisance dust would be controlled per Caltrans Standard Specifications, Sections 17 and 18. This work shall consist of applying a

dust palliative for the prevention of nuisance dust. The dust palliative shall be applied in the amount and at the locations as directed by the project engineer.

3.3 Biological Environment

A field survey was conducted to look for known populations of sensitive plant species near the project area. Biological surveys consisted of walking paths parallel to the highway. Flora and fauna encountered on these paths were identified. Habitat types were documented and classified by dominant vegetation. Any other unusual or sensitive areas were also documented, including any washes, streambeds, riparian habitat, playas, alkaline areas, burrows, nests, or other conditions not common to the area or habitat or situation. All U.S. Army Corps of Engineers “waters of the U.S.” were analyzed and delineated in accordance with U.S. Army Corps of Engineers regulations. Waters of the U.S. were delineated based upon the ordinary high water mark.

3.3.1 Vegetation

3.3.1.1 Affected Environment

Habitat Types

The following vegetation types or combination of vegetation types were encountered in the project area:

- Desert saltbush scrub generally contains low-growing, grayish, microphyllous shrubs. These shrubs normally range in size from 0.3 meter (0.9 foot) to 1.0 meter (3.3 feet). This habitat generally occurs on areas surrounding playas or on slightly higher ground, and is widely scattered on margins of dry lakebeds in the Colorado, Mojave and Great Basin deserts.
- Blackbush scrub occurs on dry, well-drained slopes and flats with shallow, often calcareous soils of very low water-holding capacity. This habitat type often coincides with Great Basin sagebrush scrub, Joshua tree woodland, or Pinyon and juniper woodlands, but typically at somewhat lower elevations, with a warmer and drier climate.
- Riparian habitat consists of shrubs and trees in the stream, with species in the willow (*Salix*) family and Fremont’s cottonwood (*Populus fremontii*). Forbs

include cattail (*Typha latifolia*), rushes (*Juncus ssp.*) and water cress (*Rorippa nasturtium-aquaticum*).

Botanical Management Area

The Caltrans Office of State Landscape Architecture has established approximately 20 Botanical Management Areas throughout California. Botanical Management Areas are examples of California plant communities as they may have appeared hundreds and thousands of years ago before European settlement. The Botanical Management Area program identifies, studies, and manages State Highway right-of-way locations that are natural remnants of California's botanical diversity. One such Botanical Management Area resides within the proposed project limits: the Division Creek Botanical Management Area.

The site is located along a two-mile stretch of U.S. Highway 395 in Inyo County, on the west side of the Owens Valley, approximately 14.5 kilometers (9 miles) north of the town of Independence from kilometer posts 132.6 to 135.8 (post miles 82.4 to 84.4). The site consists of all Caltrans right-of-way on both sides of the existing highway between these post mile limits. The predominant plant communities at the Botanical Management Area are fourwing saltbush scrub and big sagebrush scrub, both of which are desert scrub communities. The Division Creek Botanical Management Area was nominated because of its location on a lava flow and its potential to contain special-status species and other soil-obligate-type plants. The visual character of the Botanical Management Area is what distinguishes it from other regions of the Owens Valley. Section 3.1 of this document describes the qualities that make this project unique in terms of visual context.

3.3.1.2 Impacts

In all, 54 hectares (133 acres) would temporarily be disturbed during the construction of the proposed project. Activities associated with temporary ground disturbance include fence rebuilding, utility relocation, construction staging, heavy equipment activity beyond the design catch points, and median grading. Areas under new shoulders and all new cuts and fills required by the proposed project are being considered permanent ground impacts. Overall, construction of the proposed project would result in approximately 68 hectares (168 acres) of permanent ground disturbance within the project limits.

No special-status species were observed within the project study area. Construction of the proposed project would not have an impact on special-status species (Table 3.1).

Habitat Types

Temporary impacts to both saltbush scrub and blackbush scrub would total 54 hectares (133 acres). Permanent impacts to both saltbush scrub and blackbush scrub would total 68 hectares (168 acres) for the project as proposed.

Riparian habitat associated with Division Creek (0.008 hectare/0.02 acre) and Taboose Creek (0.02 hectare/0.05 acre) would be directly affected in the form of permanent loss. Application of the recommended mitigation measures would minimize impacts to vegetation.

Botanical Management Area

No special-status species were observed within the project study area. Impacts to the Botanical Management Area make up a portion of the impacts detailed above regarding habitat types. The Botanical Management Area consists of the desert scrub plant communities that would be affected by project construction from kilometer posts 132.6 to 135.8 (post miles 82.4 to 84.4).

The Site-Specific Management Plan for the Division Creek Botanical Management Area, written in January 2001, anticipated the proposal of this project. With that anticipation, short- and long-term guidelines were established to minimize construction and maintenance disturbances to the Botanical Management Area. Impacts to the management area would be minimized with application of the established guidelines and recommended mitigation.

3.3.1.3 Mitigation

Habitat Types

Caltrans Standard Duff Provision would be applied to the proposed project in efforts to mitigate temporary and permanent impacts to natural vegetation. This work shall consist of excavating, stockpiling, removing from stockpiles, spreading, and compacting duff to be placed on designated excavation and embankment slopes prior to applying erosion control measures. Duff shall consist of a mixture of soil and existing decomposed, chopped, broken or chipped plant material, leaves, grasses, weeds, and other plant material excavated from areas within the project limits.

Areas of disturbance would be kept to the minimal area necessary to construct the project. Environmentally Sensitive Areas would be used to control disturbances. To minimize the temporary impacts and prevent soil erosion, a combination of storm water pollution prevention procedures and construction best management practices would be used when applicable. Areas of temporary disturbance would be replanted

using a combination of grass, shrub, and tree species native to the area. Riparian areas would be replanted in accordance with replacement ratios outlined in the 1601 Streambed Alteration Agreement to be obtained prior to construction. In the past, these replacement ratios have varied from two for every one tree removed up to six for every one tree removed, based largely on the size of the trees being removed.

Botanical Management Area

The largest short-term challenge for the Botanical Management Area is to protect native vegetation as much as possible during construction. One main way to preserve native vegetation during construction is to preserve the topography and vegetation of the future median as much as possible. Rather than grading the entire median, the middle section of the median (minus the area on either side that would be graded for shoulder and shoulder backing) would be left alone. Though leaving the median alone during construction may not be as convenient as grading it, once construction is completed, the following conditions would exist:

- no resources would be needed to replant the median.
- there would be far less disturbed ground on which invasive non-native species are likely to colonize.
- a median with natural topography, including rock formations, is more scenic and would help decrease driver boredom, and
- the rolling topography of the median would help shield drivers from the headlights of oncoming traffic.

During construction, occasional roads crossing the median would be constructed so that equipment can access the current road. Unless absolutely necessary, none of these roads would be built within the limits of the Botanical Management Area. The protection of native vegetation during construction would consist of the following activities when applicable:

- Educate all personnel who will be working on the construction or roadway maintenance projects about the Botanical Management Area's botanical resources, the guidelines designed to protect the resources, and their responsibility to follow the guidelines.
- Protect vegetation that will not be disturbed, including all vegetation in the future median, by fencing or flagging the area and marking it as a no-entry zone.
- Flag around the drip-lines of trees as no-entry zones.

- In areas where vegetation cannot be protected, remove and store topsoil, which contains the native seed bank and organic matter.
- Clean machinery when moving from an area containing non-native plants to the Botanical Management Area.
- Move excess soil to stockpile or dump sites rather than spreading it on existing vegetation.
- Borrow materials from sites free of non-native species.
- Locate borrow pits where native vegetation will not be disturbed.
- Prevent erosion.
- Place stockpile, dump, and borrow pit sites off of the Botanical Management Area.
- Designate vehicle and machinery parking sites where vehicles will create the least disturbance to native vegetation.
- Plan and mark vehicle and machinery turning points in areas where they will not disturb native vegetation.
- Restore the natural topography after construction.
- Replace the stockpiled topsoil in disturbed areas.
- Do not create any additional disturbance while cleaning up the construction area.
- Remove all litter and construction debris from the Botanical Management Area.

As outlined in the Site-Specific Management Plan for the Division Creek Botanical Management Area, it is the responsibility of the Caltrans landscape architect with the assistance of the Caltrans resident engineer assigned to the project to do the following:

- Before construction begins, walk through the construction area and flag areas that should not be disturbed (this includes all vegetation that does not need to be removed for construction), the boundaries of construction activities, and official access roads.
- Communicate the construction guidelines to the construction project manager and the contractor.
- Hold a tailgate meeting with the contractor and construction workers to inform them about the guidelines and construction area limits, areas that should not be disturbed (no-entry zones), and access roads.
- Monitor (or confirm that another person is monitoring) to ensure that the guidelines are being followed during construction, and

- Before the contractor is officially signed off, inspect the site and be satisfied with its condition after post-construction clean up and rehabilitation is finished.

Persistent application of the management plan's guidelines would minimize any construction-related impacts to the Botanical Management Area, while preserving the visual qualities of this portion of U.S. Highway 395.

3.3.2 Wildlife

3.3.2.1 Affected Environment

A literature search and initial field surveys were used to obtain information relevant to the project. This literature review resulted in a list of special-status species with the potential to occur in and around the project area (Armes 2003).

A list of federally listed, proposed, and candidate species dated January 9, 2003 was received for the proposed widening project (see Appendix D) from the U.S. Fish and Wildlife Service. Four species were classified as Endangered, one as Threatened, and one as Candidate. Table 3.1 shows these six species as well as those identified by the literature search.

3.3.2.2 Impacts

During the biological surveys, special attention was given to all of the species listed as potentially occurring within the project vicinity. Although some of these species have the potential to use the habitat within or near the project area (none were observed in the project area), based on survey results, provisions, and protocols, no effects are expected to occur to any special-status species as a result of this project (Armes 2003).

Table 3.1 Federal and State Listed, Proposed, Candidate and Species of Concern within the Project Area

Common Name	Species	Status	Impacts
Mammals			
Owens Valley vole	<i>Microtus californicus vallicola</i>	FSC, CSC	None
California big horn sheep	<i>Ovis canadensis californica</i>	FSC, ST	None
Birds			
Bald eagle	<i>Haliaeetus leucocephalus</i>	FT	None
Osprey	<i>Pandion haliaetus</i>	CSC	None
Long-eared owl	<i>Asoi otus</i>	CSC	None
Yellow-breasted chat	<i>Icteria virens</i>	CSC	None
Western yellow-billed cuckoo	<i>Coccyzus americanus occidentalis</i>	C, SE	None
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	FE, SE	None
Least bell's vireo	<i>Vireo bellii pusillus</i>	FE	None
Fish			
Owens speckled dace	<i>Rhinichthys osculus</i>	FSC, CSC	None
Owens pupfish	<i>Cyprinodon radiosus</i>	FE, SE	None
Owens tui chub	<i>Gila bicolor snyderi</i>	FE, SE	None
Plants			
Inyo County star-tulip	<i>Calachortus encavatus</i>	FSC, CNPS 1B	None
Nevada oryctes	<i>Oryctes nevadensis</i>	FSC, CNPS 1B	None
Raven's milk vetch	<i>Astragalus monoensis v. ravenii</i>	FSC	None
Father Crowley's lupine	<i>Lupinus padre crowleyi</i>	FSC, CNPS 1B	None
Owens Valley checkerbloom	<i>Sidalcea covillei</i>	FSC, SE	None
Geyer's milk-vetch	<i>Astragalus geyeri</i> var. <i>geyeri</i>	CNPS 2	None
Naked milk-vetch	<i>Astragalus serenoii</i> var. <i>shockleyi</i>	CNPS 2	None
Ripley's gilia	<i>Gilia ripleyi</i>	CNPS 2	None
Sagebrush loeflingia	<i>Loeflingia squarrosa</i> var. <i>artemisiarum</i>	CNPS 1B	None
Narrow leaved cottonwood	<i>Populus angustifolia</i>	CNPS 2	None
Pinyon rock cress	<i>Arabis dispar</i>	CNPS 2	None
Darwin rock cress	<i>Arabis pulchra</i> var. <i>munciensis</i>	CNPS 2	None

FE=Federal Listed as Endangered

FT=Federal Listed as Threatened

FSC=Federal Species of Concern

C =Candidate species for which the Fish and Wildlife Service has on file sufficient information on the biological vulnerability and threats to support proposals to list as endangered or threatened.

SE= State Listed as Endangered

ST= State Listed as Threatened

CSC=California Species of Concern

CNPS 1B=California Native Plant Society listing for plants rare, threatened, or endangered in California.

CNPS 2= California Native Plant Society listing for plants rare, threatened, or endangered in California. But more common elsewhere.

3.4 Land Use

3.4.1 Affected Environment

Nearly all the adjacent land is classified as open-space and is owned by either the U.S. Bureau of Land Management or Los Angeles Department of Water and Power. There is only one improved parcel within the project limits. The Division Creek Roadside Safety Rest, owned and operated by Caltrans at kilometer post 135.2 (post mile 84.0), was constructed in 1975. It sits on the east side of the existing highway and, except for modifications to the entrance and exit roads, the rest area would not be affected by either build alternative. No other improvements exist within the project limits. Because the land is under public ownership, no additional improvements are expected for the foreseeable future.

The proposed project lies entirely within Owens Valley along the eastern side of the Sierra Nevada mountain range. Roadway elevations vary at or around the 1,158-meter (3,800-foot) contour as the road meanders northward. The topsoil is composed of lightweight volcanic matter, with scattered ridges and large fragments of hardened black ash, referred to locally as “Malapi” fields. This material has either flowed or been spewed from the several volcanic cones located in the region. The project’s name originates from these black deposits left behind by prehistoric eruptions.

The region surrounding this project is generally high desert with a semi-arid climate. The Owens Valley lies within the “rain shadow” of the Sierra Nevada range, which accounts for the low moisture values. Of the six drainages that exist within the project limits, only one remains in its nature channel. Many have been altered by the Los Angeles Department of Water and Power for other beneficial uses.

Vegetation throughout the project area consists primarily of the typical high desert upland types of lightly scattered rabbit- and sagebrush. Division Creek Ditch and Taboose Creek crossings contain the typical riparian scrub vegetation of willows, wild rose and/or cottonwood trees.

3.4.2 Impacts

The Inyo County General Plan includes a Circulation Element established in 1982. The “Highways” category states: “It is the goal of Inyo County that the existing highway system be maintained or improved to provide for the safe and expeditious movement of people and goods.” It is the policy of Inyo County to:

- Realize that maintenance, rehabilitation, and reconstruction of the existing highway system have first call on available funds.
- Recommend operational improvements for safety and maximum service efficiency as a second priority.
- Support new highway facilities where, as compared with other alternatives, this is the most effective way to improve overall transportation system operations.
- Actively pursue methods and means to convert all of U.S. Highway 395 to a four-lane facility within the county.
- Support plans that propose multi-modal uses of the highway system.

This project, which would build the four-lane divided expressway, was included in the 2002 Federal Transportation Improvement Program. The proposed project would not affect any current or future land use plans and is consistent with the goals set forth in the Inyo County General Plan Circulation Element.

Route Matters

There are three-existing Route Adoptions and three corresponding controlled access facility agreements pertaining to the existing highway within the project study limits. They are identified as follows:

Adoptions

- 3/26/1957 – Independence to 0.8 kilometer (0.5 mile) south of Coliseum Road, Freeway Adoption, 7.5 kilometers (4.7 miles)
- 8/23/1962 – 0.8 kilometer (0.5 mile) south of Coliseum Road to Black Rock (17.4 kilometers (10.8 miles) south of Big Pine), Freeway Adoption, 17.5 kilometers (10.9 miles)
- 12/2/1998 – Black Rock to 7 kilometers (4.4 miles) south of Big Pine, (Freeway Adoption 7/24/56): Freeway Denominated to Controlled Access Highway

Agreements

- 4/4/1960 – Independence to 0.8 kilometer (0.5 mile) south of Coliseum Road, Freeway Agreement, 7.5 kilometers (4.7 miles)
- 5/4/1963 – 0.8 kilometer (0.5 mile) south of Coliseum Road to Black Rock (17.4 kilometers (10.8 miles) south of Big Pine), Freeway Agreement, 17.5 kilometers (10.9 miles)
- 4/6/1999 – Black Rock to 0.8 kilometer (0.5 mile) north of Steward Lane, Controlled Access Highway Agreement

As there are no plans to construct a freeway in the next 20 years, the portion of highway from Independence, kilometer post 120.2 (post mile 74.7) to Black Rock, kilometer post 144.4 (post mile 89.7) may be denominated to a Controlled Access Highway and a Controlled Access Highway Agreement may be executed to supersede the existing Freeway Agreements.

3.5 Social and Economic

3.5.1 Affected Environment

The proposed project lies in a rural area that is lightly populated. However, the project serves the communities in the eastern portion of Inyo and Mono counties, and is the primary traffic and transportation corridor supporting several cities and unincorporated communities. Encompassing more than 10,000 square miles, Inyo County is the second largest county in California. Surrounding counties include Mono County to the north, Fresno and Tulare counties to the west, and Kern and San Bernardino counties to the south; the state of Nevada lies to the east. Located relatively close to major tourist attractions, including Mammoth Mountain and Yosemite National Park, Inyo County has become a popular destination for fishing, hiking, and climbing, among other recreational activities. Death Valley, Kings Canyon and Sequoia National Parks are widely accessed from the Owens Valley. As a result, the tourism industry plays a major role in the county's economy.

3.5.1.1 Population

The 2000 Census data for Inyo County reflects a population of 18,000 residents. The largest city, Bishop, recorded a population of 3,600 residents in 2000, an increase of 3% over the 1990 Census figures. The population of Inyo County is projected to reach 20,700 by the year 2020, indicating growth of 15% over the next 20 years.

Census data reveals that the population is composed of: 80.1% White; 0.2% Black or African-American; 10.0% American Indian and Alaska Native; 0.9% Asian; 0.1% Native Hawaiian and other Pacific Islander; 4.6% reported some other race; 4.1% reported two or more races. Approximately 12.6% of Inyo County's population reported being of Spanish or Latino origin; and approximately 74.4% reported being White, not of Hispanic/Latino origin.

3.5.1.2 Employment

The 2000 annual average employment statistics for the county shows that the civilian labor force is down slightly from 1999 to just over 7,100 workers. The annual average unemployment rate for 2000 was 5.6%. While higher than the state's rate of 4.9% for the same year, the unemployment rate in Inyo County has been steadily declining since 1996.

According to the 2000 annual average statistics, total employment is dominated by government, services, and retail trade industries. Government jobs accounted for the largest share, almost 35% of all employment. Services made up over 24% (over 1,800) of the total. Retail trade contributed 24% (more than 1,800) of the total employment, with the majority of jobs in the "eating and drinking places" component.

Since 1996, unemployment rates in both Inyo County and neighboring Mono County have declined, indicating increased employment opportunities in the area. The Inyo County annual average unemployment rate has dropped a cumulative 2.8%, from a high of 8.4% in 1996 and a low of 5.6% in 2000.

3.5.1.3 Income

In 1998, per-capita personal income averaged \$23,468 in Inyo County. This income level is lower than the statewide average of \$28,172 for the same period. The average income per job in 1998 was \$25,123. The county shows a smaller incidence of poverty than for the state as a whole. In the county, 14% were reported below the poverty level, while the figure for the state was 16%.

From 1996 through 2000, wage and salary employment for Inyo County added 370 jobs, a cumulative growth of 5%. In 2000, the county added 30 jobs, posting growth in retail trade and manufacturing. Within retail trade, all new jobs were in the "eating and drinking places" component, reflecting growth in a tourist-based economy.

3.5.2 Impacts

3.5.2.1 Relocation Impacts

A Relocation Impact Study was prepared by Caltrans for the proposed alternatives. Due to the project's rural location, the estimates prepared for the project alternatives showed that no relocation assistance was necessary. There are no communities, residents, or structures residing within the project limits, except for a Caltrans rest area. Therefore, there would be no impact to owners, tenants, businesses or persons in possession of real property to be acquired who would qualify for relocation benefits under the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

A total of 8.232 hectares (20.34 acres) of additional right-of-way would be required for the proposed project. There is currently sufficient Caltrans right-of-way for 17.5 kilometers (10.87 miles) of the proposed 23 kilometers (14.29 miles) required for the project. The purchase of additional right-of-way would not affect the future land use designations of the project area.

3.5.2.2 Environmental Justice

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, signed by President Bill Clinton on February 11, 1994, directs federal agencies to take the appropriate and necessary steps to identify and address disproportionately high and adverse effects of federal projects on the health or environment of minority and low-income populations to the greatest extent practicable and permitted by law.

The proposed project is located within a rural environment. There are no communities, residents, or structures residing within the project limits. No minority or low-income populations have been identified that would be adversely affected by the proposed project as determined above. Therefore, this project is not subject to the provisions of Executive Order 12898.

3.6 Historic and Archaeological Preservation

3.6.1 Affected Environment

Surveys identified 37 cultural resources within the Black Rock project area. The Area of Potential Effects, defined for cultural resources, depicts the most expansive design of the three project alternatives and encompasses the areas of the two build alternatives. Construction activities associated with these alternative were incorporated into the Area of Potential Effects, which extends up to 75 meters (246

feet) west and 25 meters (82 feet) east of the existing centerline throughout most of the project limits. These limits were derived from existing Caltrans right-of-way boundaries. In addition, construction activities could extend as far as 230 meters (755 feet) west and 60 meters (197 feet) east of the existing centerline at specific locations due to construction staging activities, intersection realignments, culvert/drainage improvements, and utility relocations.

The 37 cultural resources noted above included 30 archaeological sites, six historic resources (water ditches and roads) and one building. None of these cultural resources had been previously determined eligible for the National Register of Historic Places. Two archaeological sites within the project's Area of Potential Effects had been previously determined ineligible for the National Register of Historic Places by the State Historic Preservation Officer (See Appendix E).

Based on evaluations conducted by Caltrans on the cultural resources identified within the project's Area of Potential Effects, 10 archaeological sites were identified as possessing the qualities necessary to be considered eligible for listing on the National Register of Historic Places and for placement on the California Register of Historic Resources. During the evaluation of these 10 archaeological sites, the State Historic Preservation Officer recommended that an additional seven sites be assumed eligible for inclusion in the National Register for the purposes of the present undertaking, bringing the overall total of eligible archaeological sites to 17. Of these 17 sites, only six would be adversely affected by the proposed project. The following is a description of these sites. The sites' prehistoric and/or historic components have been identified along with characteristics that attribute them as eligible/ineligible candidates for the National Register of Historic Places. Impacts to the sites vary from a minor disturbance of a specific location within a site, to multiple impacts over a large surface area, depending on the sites' size and location within the project's Area of Potential Effects. For the remaining 11 sites, the National Register of Historic Places contributing features would not be affected by the project (they are discussed in the mitigation section later in this chapter).

CA-INY-5267

This prehistoric site is a moderate-sized lithic scatter, which appears to be a seasonal encampment. Further investigation of the site revealed an expansive scatter of prehistoric materials that are segregated into four separate areas within the site. Artifacts recovered from each area are of variable type and abundance. Each

furnished sufficiently large collections of tools and flaking debris that could be used in evaluating changes in technology and raw material use over time.

Archaeological deposits at CA-INY-5267 retain much of their integrity and have the demonstrated potential to contribute valuable information about the past. This site is eligible for the National Register of Historic Places under Criterion D.

CA-INY-5273/H

This large intermittent settlement site consists of four prehistoric and two historic components. The prehistoric component suggests a small lithic workshop area or temporary camp, while the historic component is composed of domestic refuse and is likely the product of local, rural households.

Investigations at CA-INY-5273/H revealed an extensive deposit characterized by a general low-density scatter of cultural material with concentrations of flaked stone, groundstone, faunal bone, stone, shell, and bone beads, and pottery in variable combinations that comprise several clusters across the site.

The prehistoric archaeological deposits of CA-INY-5273/H retain much of their integrity and have demonstrated the potential to contribute information about the prehistory of the area. However, the historical deposits at the site have been systematically sampled and documented, and no longer have the potential to contribute additional information important to our understanding of the history of the area. CA-INY-5273/H is eligible for the National Register of Historic Places under Criterion D for values associated with the prehistoric deposits; the historic deposits do not appear to contribute to this eligibility.

CA-INY-5275/H

Site CA-INY-5275/H is a large occupation site that contains distinct historic and prehistoric components. The historic component suggests that the site and surrounding land was occupied and used by local Paiutes through the historic period into the 1920s. The prehistoric component suggests a temporary camp or occupation area used for the maintenance or rejuvenation of tool stones.

Evaluations at the prehistoric component produced an extensive and varied assemblage characterized by a general low-density scatter of cultural material. The historic component exhibited undisturbed trash deposits and a detailed documentary

record of a local Paiute family, the Olds, who lived at the site from approximately 1870 to the 1920s.

Excavations revealed extensive and varied assemblages related to chronology, settlement, subsistence, and economic and sociopolitical organization, rendering the site eligible for the National Register of Historic Places. Site CA-INY-5275/H is eligible for the National Register of Historic Places under Criterion D for both its prehistoric component and its historic component relating to the Olds family.

CA-INY-5276

This site is a moderate-sized occupation site with associated flaked and groundstone tool debris. The site identified discrete concentrations of artifacts, A, B, and C, to the west of the highway, and a large, more general scatter of artifacts to the east of the highway. Concentrations A and B lie within the Area of Potential Effects and would be vulnerable to highway construction. Concentration C lies outside of the Area of Potential Effects and would not be affected by the build alternatives.

While portions of the site have been affected by previous road construction, large portions of the site retain integrity and can address an array of research themes, including paleoenvironmental reconstruction, refinement of existing cultural chronologies, settlement and mobility, subsistence intensification, economic and sociopolitical organization, and site formation processes. CA-INY-5276 is eligible for the National Register of Historic Places under Criterion D.

CA-INY-5873/H

This is a relatively small prehistoric and historic archaeological site. Roughly a quarter of the site, 1300 square meters (0.32 acre) fall within the Area of Potential Effects as currently defined. Phase II investigations identified two cultural components. Surface deposits are characterized by historic-era Native American remains and traces of prehistoric material. Beneath this, at depths below 30 centimeters (11.8 inches), is a second prehistoric component dating to the Newberry Period. The historic component appears to be part of a larger historic activity area associated with an old ranching or fruit-growing operation, while the prehistoric component suggests periodic usage as a temporary campsite.

Given the vertical separation of the two components, the Newberry remains offer an unusual opportunity to expand and refine our understanding of this critical interval in the culture history of the Eastern Sierra, where only a handful of sites dating to this

period have been investigated. Of particular interest are issues relating to the chronology, settlement mobility, and subsistence patterns of Newberry populations, leading up to the intensification in land use beginning around 1300 BP. Meanwhile, the historic era refuse can be used to explore subsistence, technological, and other behavioral changes brought about by the rapid acculturation of native Paiute peoples as they were incorporated into the dominant Euroamerican economy in the late 19th and early 20th century.

The integrity and data potential at this site could contribute information on a variety of outstanding issues on the prehistory and history of the Inyo/Mono region. CA-INY-5873/H is eligible for the National Register of Historic Places under Criterion D.

CA-INY-5877

This moderate-sized prehistoric site contains a diverse set of cultural remains identifying it as a residential encampment used for various purposes and likely occupied by inclusive social units. While the presence of groundstone, pottery, and limited amounts of paleobotanical remains implies some vegetal processing, the recovery of projectile points, bifaces, and animal bones suggests an emphasis was also placed on hunting activities.

The late prehistoric interval in Owens Valley was marked by dramatic changes in resource and habitat use, the organization of technology, and the nature of social formations. The intact and varied archaeological deposits preserved at CA-INY-5877 are crucial to developing and refining models for the mode and tempo of these cultural adjustments. Despite some disturbances to the site periphery, the deposit retains excellent structural differentiation and contains a host of data pertinent to issues of settlement and mobility, subsistence intensification, and economic and sociopolitical organization. CA-INY-5877 is eligible for the National Register of Historic Places under Criterion D.

Architectural Resources

An initial field survey of the project area found only one building in the project vicinity: the Division Creek Roadside Rest Area building. Built in 1966, this building was evaluated as not eligible to the National Register of Historic Places.

The proposed project would not result in any impacts to architectural resources.

3.6.2 Impacts

Cultural resource studies were conducted between 1996 and 2001. Cultural resource surveys were performed specifically for the Black Rock project in 1999 and 2000 and were supplemented by previous districtwide cultural surveys and the Fish Springs Four-Lane project surveys.

Cultural resource studies were performed to comply with Section 106 of the National Historic Preservation Act and Section 15064.5 (a)(2)-(3) of the guidelines for the California Environmental Quality Act. An Historic Properties Survey Report for the project presents a summary of the 30 archaeological sites, six historic sites, and one architectural site located within the Area of Potential Effects.

The State Historic Preservation Officer concurred on November 13, 2002, that the 10 potentially eligible archaeological sites identified—CA-INY-5267, CA-INY-5273/H, CA-INY-5275/H, CA-INY-5276, CA-INY-5281, CA-INY-5285/H, CA-INY-5873/H, CA-INY-5874, CA-INY-5875, and CA-INY-5877—are eligible for inclusion in the National Register of Historic Places according to Criterion D. Criterion D applies to properties that have yielded or are likely to yield information important to prehistory or history. The State Historic Preservation Officer also recommended that sites CA-INY-3796, CA-INY-5277, CA-INY-5278, CA-INY-5812H, CA-INY-5871, CA-INY-5876, and CA-INY-5884 be assumed eligible for the purposes of the present undertaking (see Appendix E). In all, 16 archaeological sites and one non-archaeological historic-period site have been identified as being eligible for inclusion in the National Register of Historic Places. The State Historic Preservation Officer also concurred that the remaining 14 archaeological sites, five historic sites, and one architectural resource (Division Creek Roadside Rest Area) were not eligible for the National Register of Historic Places.

Construction-related impacts to cultural sites identified within the Area of Potential Effects would total approximately 8.5 hectares (21 acres). Of the total 68 hectares (168 acres) anticipated to be affected by project construction, only 12.5 % of this area is composed of cultural sites found within the project's Area of Potential Effects. Construction activities associated with the addition of two new southbound lanes would adversely affect portions of sites: CA-INY-5267, CA-INY-5273/H, CA-INY-5275/H, CA-INY-5276, CA-INY-5873/H, and CA-INY-5877. Mitigation measures outlined in Section 3.6.3 would minimize impacts to cultural resources.

CA-INY-5267

The proposed build alternatives would affect approximately 1.3 hectare (3.2 acres), which is roughly 15.4% of the total site area and only 1.9% of the total ground disturbance for the entire length of the project.

CA-INY-5267 would be affected by a proposed highway fill section with a maximum height of 1 meter (3.3 feet) at this location. Of the four artifact concentrations identified within the site, two lie outside the project impact area. Consequently, no further work is necessary at either of these locations. The limited amount of archaeological data available from the sparse surface/near-surface scatter that comprises the third concentration was substantially collected during test evaluations. Further work at this location would contribute nothing of importance about the past and additional treatment is unwarranted.

Only one concentration of artifacts would be affected by the build alternatives. Most of this location would be disturbed or destroyed during construction, resulting in only a small portion remaining outside the project impact area.

CA-INY-5273/H

CA-INY-5273/H would be affected by a proposed highway cut section with a maximum depth of 1 meter (3.3 feet) at this location. Relocation of a fiberoptic line to the east of the right-of-way fence on the east side of the existing road would physically damage a small portion of the site (3.8%), which has been determined as contributing to its National Register of Historic Places eligibility. The rest of the contributing elements of the site are located outside of the project impact area. Impacts associated with construction of the new roadway have been estimated to be 1.0 hectare (2.4 acres), approximately 1.4% of the total impact for the entire length of the project.

CA-INY-5275/H

CA-INY-5275/H would be affected by a proposed highway fill section at this location. Construction activities and the re-channeling of Taboose Creek would physically damage prehistoric portions of the site, which are not contributing to the National Register of Historic Places eligibility. These activities would also physically damage historical features that have been determined as contributing to the National Register of Historic Places eligibility. Impacts to site CA-INY-5275/H are estimated to be 4.9 hectares (12.1 acres). Total impact amounts to 10.1 % of the total historic

component area, much of which lies west of the existing alignment. Total site impact represents 7.2% of the total impact for the entire length of the project.

CA-INY-5276

A proposed highway fill section at this location would affect CA-INY-5276. Construction activities would physically damage portions of Concentration A and B along with areas to the east of the highway, which have been determined as contributing to the National Register of Historic Places eligibility of the site. Concentration C lies outside of the Area of Potential Effects and would not be affected by the build alternatives. Construction-related impacts to site CA-INY-5276 would total 0.80 hectare (1.97 acres), or 13.3% of the total site area. Total site impact represents 1.1 % of the total impact for the entire length of the project.

CA-INY-5873/H

A proposed highway fill section at this location would affect CA-INY-5873/H. Construction activities would damage the eastern portion of the site, which has been determined as contributing to the National Register of Historic Places eligibility of the site. A total of 0.008hectare (0.02 acre) is expected to be disturbed during construction; this total represents only 0.8 % of the total site area. Total site impacts represent 0.005 % of the total impact for the entire length of the project.

CA-INY-5877

The site would be affected by a proposed highway fill section at this location. Construction activities, relocation of Division Creek (piped in this location), and reconfiguration of utility access roads would physically damage portions of the site that have been determined as contributing to its National Register of Historic Places eligibility. A total of 0.54 hectare (1.33acres) would be affected by construction of the proposed project; this represents the total site area. Total site impacts represent 0.79 % of the total impact for the entire project.

3.6.3 Mitigation

The Federal Highway Administration has made a Finding of Adverse Effect, with the concurrence of the State Historic Preservation Officer on October 29, 2003 (see Appendix E). Seventeen archaeological sites are present in the Area of Potential Effects: CA-INY-3796, CA-INY-5267, -5273/H, -5275/H, -5276, -5277, -5278, -5281, -5285/H, -5812H, -5871, -5873/H, -5874, -5875, -5876, -5877, and -5884.

Design changes and establishing Environmentally Sensitive Areas would prevent any effect on CA-INY-5874, and would prevent adverse effects to CA-INY-3796, -5277, -5278, -5281, -5285/H, -5812H, -5871, -5875, -5876, and -5884. The proposed project would adversely affect the remaining six sites, including CA-INY-5267, -5273/H, -5275/H, 5276, -5873/H, and -5877. Mitigation for the impacts to these sites would include 1) establishing Environmentally Sensitive Areas; 2) data recovery mapping and excavations; 3) preparing associated technical reports and studies; and 4) a public outreach effort.

A Finding of Adverse Effect and Memorandum of Agreement with a Data Treatment Plan have been prepared for the project. These documents state that the proposed project would have an adverse impact on these sites and recommend appropriate mitigation measures to be implemented. Impacts to the affected sites would be mitigated by the tasks defined in the Data Treatment Plan. The Finding of Adverse Effect/Memorandum of Agreement/Data Treatment Plan was submitted to the State Historic Preservation Officer for review and comment prior to completion of the final environmental document. This combination was also submitted concurrently to the Advisory Council on Historic Preservation pursuant to 36 CFR § 800.6(a)(1). The Advisory Council of Historic Preservation declined to comment on the finding. The State Historic Preservation Officer concurred on May 3, 2004 with the proposed mitigation tasks outlined in the documents (see Appendix F). Table 3.2 shows the recommended mitigation measures for each site adversely affected.

The project impact to the historic/prehistoric sites would be mitigated under the terms of a Memorandum of Agreement (see Appendix F).

Table 3.2 Site Impacts and Proposed Mitigation

Site	Impact Area in Hectares (Acres)	Mitigation
CA-INY-5267	1.3 (3.2)	ESA, Data Recovery, Monitoring
CA-INY-5273/H	1 (2.47)	ESA, Data Recovery, Monitoring
CA-INY-5275/H	4.9 (12.1)	ESA, Data Recovery, Monitoring
CA-INY-5276	0.80 (1.97)	ESA, Data Recovery, Monitoring
CA-INY-5873/H	0.008 (0.01)	ESA, Data Recovery, Monitoring
CA-INY-5877	0.54 (1.33)	Data Recovery, Monitoring
Total	8.546 (21.06)	

ESA= Environmental Sensitive Area protected by fencing

Caltrans standard procedures require that if previously unidentified cultural resources are encountered during clearing or construction, work would cease in that area until the requirements of 36 CFR 800.13 have been met. The discovery of an unknown resource during construction is to be reported immediately to the resident engineer, who would order work in the area of the resource be stopped and would give notice to the appropriate agencies to evaluate the importance of the site. If the findings are substantial and construction work cannot continue without conducting more extensive investigation, the Caltrans District Environmental Branch would advise the resident engineer.

3.7 Geology and Soils

3.7.1 Affected Environment

The project area is located within the Basin and Range Geologic Province of California. This province is a series of peak and valley features that are oriented in a general north-south direction. The Sierra Nevada and Inyo-White mountains rise with respect to the Owens Valley, which drops along normal faults located on the east and west sides of the valley. Numerous alluvial fans have formed and are forming at the base of these mountain ranges along the edges of the valley.

The project area lies over thick quaternary alluvium that is overlain by quaternary lava flows in three areas. The lava flows originated near the base of the Sierra Nevada Mountains to the west of the project and flowed across the alluvium toward the east. At the north end of the project, granodiorite rock is exposed in an existing road cut.

The soils in the alluvial areas can be classified as poorly sorted silty sand, sand, and gravel with scattered to abundant cobbles and boulders.

3.7.2 Impacts

The project is located in a seismically active area. Available geologic information indicates the presence of an active fault near the project area. The geologic processes that have caused earthquakes in the past can be expected to continue. The Sierra Nevada-Owens Valley Fault, the White Mountain Fault, and the Independence Fault lie closest to the project. The risk of a strong earthquake, while low, still exists. A strong earthquake could introduce ground rupture to areas of Bishop, Big Pine, and Lone Pine. Strong ground shaking would occur throughout the valley.

An earthquake measuring 7.8 on the Richter scale took place along the Sierra Nevada-Owens Valley Fault in 1872. Near the project site, several traces of this fault have been mapped under the Alquist Priolo Earthquake Fault Zoning Act. The fault roughly parallels the alignment of this project approximately 5 to 6 kilometers (3 to 3.7 miles) to the east of the present alignment from the south end of the project north to Black Rock. From Black Rock to the north, the fault approaches the alignment finally crossing the existing alignment at kilometer post 144.61 (post mile 90). The Sierra Nevada-Owens Valley Fault is considered active because of recent movement. A fault is considered by the State of California to be “active” if geologic evidence indicates that movement on the fault has occurred in the last 11,000 years, and a fault is considered to be “potentially active” if movement is demonstrated to have occurred in the last 2 million years.

The White Mountain Fault has been mapped within 2 kilometers (1.2 miles) to the east of the project near kilometer post 144 (post mile 89). The Independence Fault is located approximately 10 kilometers (6.2 miles) south of the project limits.

Ground shaking is the primary cause of structural damage during an earthquake and is considered one of the most likely damage-producing phenomena for this project. The magnitude, duration, and vibration frequency characteristics would vary greatly, depending on the fault and its distance from the project. Surface rupture could occur near or within this project site in the future if a moderate or large earthquake on the Sierra Nevada-Owens Valley Fault were to occur. Due to the location of the fault relative to the various project alternatives, this potential cannot be entirely avoided. However, this potential also exists for the existing U.S. Highway 395 and therefore the proposed project does not generate a new hazard exposure. The lower the heights

of embankments and more shallow the depths of proposed cuts, the easier it would be to repair damage caused by either ground rupture or shaking. The project as proposed would not have an impact on people or structures regarding exposure to geologic processes of the Owens Valley.

3.8 Hazardous Waste Sites

3.8.1 Affected Environment

An Initial Site Assessment was performed for the proposed project. A review of past construction projects and a check of Inyo County records through this region indicated ranching and livestock grazing have been the only land uses within project limits.

In 1996, Caltrans removed an underground storage tank from the existing right-of-way near kilometer post 140.8 (post mile 87.5). The fuel tank was from the old Taboose Creek Ranch, which Caltrans had purchased for a 1960 roadway improvement project. The tank was found in the field and removed. A “Letter of Closure” from Inyo County was issued for the site in August 1996.

Without any other indications of past land uses, which could lead to potential hazardous waste locations, Caltrans concludes that no further site investigation activities would be anticipated as there are no known hazardous waste locations within the project limits. If additional information were disclosed to the contrary, further action would be taken.

3.9 Water Quality

3.9.1 Affected Environment

Six creeks lie within the project limits: Thibau, Sawmill, Division, Goodale, Taboose, and Black Canyon. Only Taboose Creek at kilometer post 140.8 (post mile 87.5) remains in its original channel and has been left relatively unaltered by the Los Angeles Department of Water and Power over the years.

Division Creek, Taboose Creek, and Goodale Creek would be the only creek crossings affected by the proposed project. To prevent quality degradation or flow disruptions downstream, close coordination with Los Angeles Department of Water and Power would be mandatory for all three creeks.

3.9.2 Impacts

At Division Creek, Taboose Creek and Goodale Creek, construction activities could create short-term impacts from storm-related soil erosion or equipment intrusion. Sensitive downstream beneficial uses, such as the Los Angeles Aqueduct and more importantly the Black Rock Fish Hatchery, could be affected by sediment transport and/or increased turbidity (water murkiness). Poor culvert design or channel realignment could result in long-term soil erosion.

Work in and around Division, Taboose and Goodale creeks must conform to the requirements of Best Management Practices as outlined in the Regional Water Board's previously-issued Board Order No. 6-87-57. These, along with a Fish and Game 1601 permit, the enforcement of the Caltrans Standard Specifications, Section 7-1.01G and implementation of a Storm Water Pollution Prevention Program, should provide sufficient controls to prevent any short-term impacts during construction.

Potential long-term impacts from ongoing erosion problems could be minimized by vegetating all disturbed soil areas on the project. The following long-term controls would be incorporated into the project:

1. The invert of the Taboose Creek crossing must be placed 0.3 meters (1.0 foot) below the flow-line, or baffles must be placed on the invert, to allow fish to pass.
2. Overside drains should either be pipe- or rock-lined ditches extending to the toe of the slope and not dumped directly into any creek channel.
3. Overside drains must be dumped into rock-lined sediment or catch basins.
4. Lost riparian habitat should be replaced, in kind, on the same waterway at a ratio of 1 to 1.
5. All culverts, new or extended, should have special treatment at both ends—this could range from portland cement concrete headwalls, flared-end sections and/or rock slope protection.
6. There would be minimum use of dikes at roadway edges to avoid concentrated runoff flows.

With long-term controls incorporated into the contract and short-term controls enforced properly during construction, there would be no impacts to the water-related issues of the proposed project.

3.9.2.1 Standard Measures

The proposed project is covered by the Caltrans Statewide National Pollutant Discharge Elimination System Permit No. CAS000003 (SWRCB No. 99-06-DWQ).

This construction stage permit requires a written Storm Water Pollution Prevention Plan for projects that involve disturbance of more than 0.4 hectare (one acre) of native ground, or other projects that could potentially affect streams and freshwater aquifers.

Presently, when a project is expected to disturb more than 0.4 hectare (one acre) of soil, the following is required:

1. A Notification of Construction is to be submitted to the appropriate Regional Water Quality Control Board at least 30 days before the start of construction. (The Notification of Construction is usually prepared and submitted by the project engineer.) The Notification of Construction form requests a tentative start date and duration, location, description of project, estimate of affected area, name of resident engineer (or other construction contact) with telephone number, etc.
2. A Storm Water Pollution Prevention Plan is to be prepared and implemented during construction to the satisfaction of the resident engineer.

Potential impacts (erosion, accidental spills of hazardous materials and disruption of natural drainage patterns) to water quality during construction would be addressed in both the design and construction phases. During the construction phase, the contractor is responsible, as stated in the Caltrans Standard Specification Section 7-1.01G, for submitting a comprehensive plan outlining steps to eliminate potential impacts during construction. The plan must address and delineate in detail how the contractor intends to alleviate potential impacts to water quality during construction. For this project, the Storm Water Pollution Prevention Plan mentioned in this section would satisfy this requirement.

A Notice of Construction Completion is to be submitted to the Regional Water Quality Control Board upon completion of the construction and stabilization of the site. A project would be considered complete when the criteria for final stabilization in the State General Construction Permit are met.

3.10 Floodplain

3.10.1 Affected Environment

Executive Order 11988 (Floodplain Management) directs all federal agencies to refrain from conducting, supporting, or allowing actions in floodplains unless it is the

only practicable alternative. The Federal Highway Administration requirements for compliance are outlined in 23 Code of Federal Regulations 650 subpart A.

A 100-year floodplain is defined as “the area subject to flooding by the flood or tide having a 1% change of being exceeded in any given year.” An encroachment is defined as “an action within the limits of the 100-year floodplain.”

3.10.2 Impacts

The proposed project crosses six creeks within the project limits. Of these, only one still remains in its original, natural channel. The other five have all been altered by the Los Angeles Department of Water and Power for other uses. The Los Angeles Aqueduct eventually intercepts each of these creeks for export south or spread for percolation and groundwater enhancement.

The Owens River is parallel and east of the existing highway. The river is diverted into the Los Angeles Aqueduct at about kilometer post 138.2 (post mile 85.9). The proposed project is well outside the limits of the Owens River floodplain. The proposed highway drainage would be designed to convey the 100-year flow without raising the elevation of the 100-year floodplains for the creeks and drainage channels within the project limits.

The proposed project does not consist of a longitudinal encroachment or an encroachment on a 100-year floodplain because it does not result in flooding risks, impact to natural floodplain values, or potential for interruption or termination of a transportation facility in the event of flooding. The proposed highway project would not support incompatible floodplain development.

3.11 “Other Waters” of the United States

3.11.1 Affected Environment

No U.S. Army Corps of Engineers jurisdictional wetlands, as defined in the 1987 Army Corps of Engineers Wetlands Delineation Manual, exists within the project limits. No wetlands would be affected as a result of this project.

Jurisdictional “Other Waters” of the United States, as defined by the Clean Water Act (33 USC 1344), exist within the project limits. United States Geological Survey Quad Maps indicate that several small drainages exist within project limits: Thibau Creek (kilometer post 127.0/post mile 78.9), Sawmill Creek (kilometer post 130.3/post mile

80.9), Division Creek (kilometer post 135.2/post mile 84), Goodale Creek (kilometer post 138.2/post mile 85.8) and Taboose Creek (kilometer post 140.8/post mile 87.5). Because of various Los Angeles Department of Water and Power controls, Taboose Creek contains the only unrestricted natural-flowing creek of the project. A sixth creek, Black Canyon (kilometer post 129/post mile 80.2), flows intermittently.

Near kilometer post 127.0 (post mile 78.9), the road crosses a conduit containing Thibau Creek. The Los Angeles Department of Water and Power now picks up the flow in a conduit well above the roadway and takes it directly into the aqueduct, 1.2 kilometers (0.75 mile) downstream and east of the highway.

At kilometer post 130.3 (post mile 81.0), Sawmill Creek, a perennial flow, crosses U.S. Highway 395 in a 600-millimeter (24-inch) conduit. Like Thibau Creek, Sawmill is intercepted well above the roadway and taken directly into the aqueduct to the east. No identifiable natural channel was noted within the project area.

At kilometer post 135.2 (post mile 83.9), the intermittent flow of Division Creek crosses the road. The water is dumped from a large 900-millimeter (36-inch) conduit just west of the existing highway, but outside the project limits. This is the tailwater from a powerhouse about two miles upstream. The water dumps into a man-made ditch where it is carried past the Division Creek Roadside Rest Area, through the state-owned Black Rock Fish Hatchery about 1.2 kilometers (0.75 mile) to the east and on into the aqueduct just beyond the hatchery.

Goodale Creek crosses U.S. Highway 395 near kilometer post 138.2 (post mile 85.9). The perennial creek has been diverted into a concrete-lined ditch, "Aberdeen Ditch," well upstream from the highway and is carried directly to the aqueduct about 0.6 kilometer (1.0 mile) east of the existing highway.

Taboose Creek crosses the highway near kilometer post 140.8 (post mile 87.5). This perennial flow is the only unaltered channel within the project limits. The flow is picked up in a ditch and carried to the aqueduct about 0.6 kilometer (1 mile) east of the highway.

West of kilometer post 129 (post mile 80.0), Black Canyon Creek flows as an intermittent stream. Estimates as high as 0.28 cubic meters per second (10 cubic feet per second) are mechanically spread west of the existing highway for groundwater recharge by Los Angeles Department of Water and Power.

All six creeks emanate out of the Sierra Nevada range and flow west to east. Each is intercepted by the Los Angeles Department of Water and Power aqueduct for export south or spread for percolation and groundwater enhancement. There are no wetlands adjoining any of these flows, and only Taboose Creek contains naturally-occurring riparian habitat. The wetted perimeter of the Division Creek conduit outlet ditch also contains riparian habitat.

3.11.2 Impacts

A total of 0.1 hectare (0.262 acre) of permanent streambed impact to “Other Waters” of the United States would result from the proposed project. Table 3.3 summarizes the location, the type of waterway, the area of riparian and streambed impact, volume of fill, and volume of rock slope protection to be placed.

Table 3.3 Impacts to “Other Waters” of the United States (Hectares/Acres)

Kilometer Post (Post Mile)	Feature	Disturbed Area in Hectares (Acres)		Volume of Fill in Channel M ³ (ft ³)	Volume of Rock Slope Protection M ³ (ft ³)
		Permanent	Temporary		
125.8 (78.19)	Dry Wash	0.03 (0.074)	0.055 (0.135)	150 (5,297)	110 (3,884)
128 (79.59)	Dry Wash	0.036 (0.088)	0.043 (0.106)	60 (2,188)	100 (3,531)
134.9 (83.88)	Division Creek	0.025 (0.061)	0.032 (0.079)	70 (2,472)	100 (3,531)
140.8 (87.53)	Taboose Creek	0.016 (0.039)	0.021 (0.051)	50 (1,765)	120 (4,237)
138.2 (85.90)	Goodale Creek	0	0.016 (0.039)	0	0
Totals		0.107 (0.262)	0.167 (0.41)	330 (11,653)	430 (15,185)

M³ = Cubic meters

Ft³ = Cubic feet

Two dry washes contain water only during periods of storm runoff. Division Creek and Taboose Creek are perennial streams and contain associated riparian vegetation and habitat. Division Creek, Taboose Creek and Goodale Creek are the only creek crossings that would require extra attention. The other three crossings are either in a conduit or never reach U.S. Highway 395.

Goodale Creek crosses the state right-of-way in a concrete-lined ditch; the natural watercourse has already been permanently disturbed. Therefore, no further permanent

disturbance to Goodale Creek would occur during the construction of the project. To construct a permanent culvert under the proposed highway lanes, Caltrans would create a temporary diversion. The diversion would consist of placing a temporary culvert or the grading of a temporary channel parallel to, but offset to, the existing concrete ditch. The existing concrete ditch would eventually be breached allowing Goodale Creek to flow into the temporary diversion and thus de-water the existing ditch for the construction of the new highway culvert. The temporary disturbance limited to the extent of the high water line caused by the construction of the new culvert and the temporary diversion system is estimated to amount to 160 square meters (1,722 square feet).

3.11.3 Mitigation

The following permits would encompass all five drainages summarized in Table 3.3:

- Clean Water Act Section 401, Water Quality Certification, would be required from the Regional Water Quality Control Board.
- Clean Water Act Section 404 Permit. Based on specifications provided by the project engineer, the project would be within the threshold of a Nationwide Permit #14 Road Crossings and #33 Temporary Construction and Access.
- A Section 1601 Streambed Alteration Agreement, California Department of Fish and Game, would be processed for the project.

To compensate for any loss of habitat or value to the existing waterways and associated riparian vegetation, a combination of invasive species eradication, habitat enhancement, and preservation of existing habitat would be used. Riparian areas would be replanted in accordance with the 1601 Streambed Alteration Agreement, to be obtained before construction.

All special provisions presented and agreed to by the involved agencies (Department of Fish and Game, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service) or as part of an agreement to terms outlined in any required permit, including provisions, pre-construction surveys, or mitigation, would be strictly complied with.

3.12 Noise

3.12.1 Affected Environment

One noise receptor lies within the limits of this project. That site, the Caltrans Division Creek Roadside Rest Area facility, sits next to the existing highway east of kilometer post 135.2 (post mile 84.0). This facility does not meet the criteria for a noise-sensitive land use and, therefore, would not require any special noise abatement attention.

There is no need for any existing noise level testing or future projections for either build alternative. Therefore, there would be no impacts from noise levels if the proposed project were constructed.

3.13 Construction

A Traffic Management Plan would not be required for Alternatives 1 or 2. Traffic can remain on the existing highway during construction of the new lanes and then be routed onto the new lanes during improvements to the existing lanes. Provisions would be made for staging construction for purposes of constructing new lanes, improving existing lanes and safe traffic movement.

During construction, the proposed project would generate temporary noise, dust, and air pollutants. Exhaust from construction equipment contains hydrocarbons, oxides of nitrogen, carbon monoxide, suspended particulate matter, and odors. However, the largest percentage of pollutants would be windblown dust generated during excavation, grading, hauling, and various other activities. Portable concrete batch plants are associated with this project. An aggregate crushing and screening plant and bituminous processing plant may be established within Caltrans right-of-way during construction. The operator of these plants would comply with all environmental requirements set forth in this document to avoid and minimize impacts. The impacts of these activities would vary each day as construction progresses.

Caltrans Standard Specifications pertaining to dust control and dust palliative requirement are a required part of all construction contracts and should effectively reduce and control emission impacts during construction. The provisions of Caltrans Standard Specifications, Section 7-1 of "Air Pollution Control" and Section 10 "Dust Control" require the contractor to comply with the Unified Air District's rules, ordinances, and regulations.

With all the appropriate Caltrans measures in place, temporary construction-related impacts would be minimized.

Chapter 4 Cumulative Impacts

The proposed project by itself is not expected to measurably accelerate growth in the study area. Construction of a build alternative would not be expected to shift growth from one area to another within Inyo County. No growth-inducing impacts would be expected to result from these improvements, if approved.

The proposed project is consistent with the goals of the Inyo County Regional Transportation Plan to actively pursue methods and means to convert all of U.S. Highway 395 to a four-lane roadway within the county. Because of existing constraints imposed by environmental resources, the priorities of applicable land use policies, land ownership, and the lack of adequate existing infrastructure capacity (such as water and sewer lines to undeveloped properties), the project by itself is not expected to accelerate growth in the study area. However, together with other current and planned highway improvement projects in the region, the project could result in minor cumulative pressures for growth in the greater region.



Chapter 5 List of Preparers

The Central Region staff of Caltrans prepared this Environmental Assessment/Initial Study. The following individuals contributed to the development of the document:

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Chapter 6 References

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Chapter 7 Comments and Responses to Environmental Assessment/Initial Study

The draft environmental document was made available to the public for review and comment from April 7, 2003 to May 21, 2003. Availability of the document for public review along with an opportunity to request a public hearing was advertised in a newspaper serving the project vicinity. Two notices were published in *The Inyo Register*, the first on April 8, 2003 and the second on May 13, 2003. Copies of the document were made available at the Inyo County Library in Independence, California. The document was also circulated to selected state agencies by the Office of Planning and Research and distributed to local planning organizations; none of these offered any comments.

One letter was received from the City of Los Angeles Department of Water and Power. The department had no comments with respect to the environmental aspects of the Environmental Assessment/Initial Study; however, the department did inform Caltrans about several facilities (creeks, wells, pipelines, etc.) along the route that may need to be accommodated prior to construction (see Figure 7.1). The letter was acknowledged and forwarded to the project engineers and will be addressed during the final design of the project. Coordination between Caltrans and the Los Angeles Department of Water and Power will be maintained throughout the project design. No further response to the Environmental Assessment/Initial Study is required.

A Notice of Completion & Environmental Document Transmittal form was submitted to the State Clearinghouse on April 1, 2003. An acknowledgement of receipt stated that the review period assigned by the State Clearinghouse for state agency review would be April 4, 2003 to May 5, 2003. Caltrans received a letter dated May 6, 2003 that stated the review period closed on May 5, 2003, and no state agencies submitted comments by that date (see Figure 7.2). The letter acknowledged that Caltrans had complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

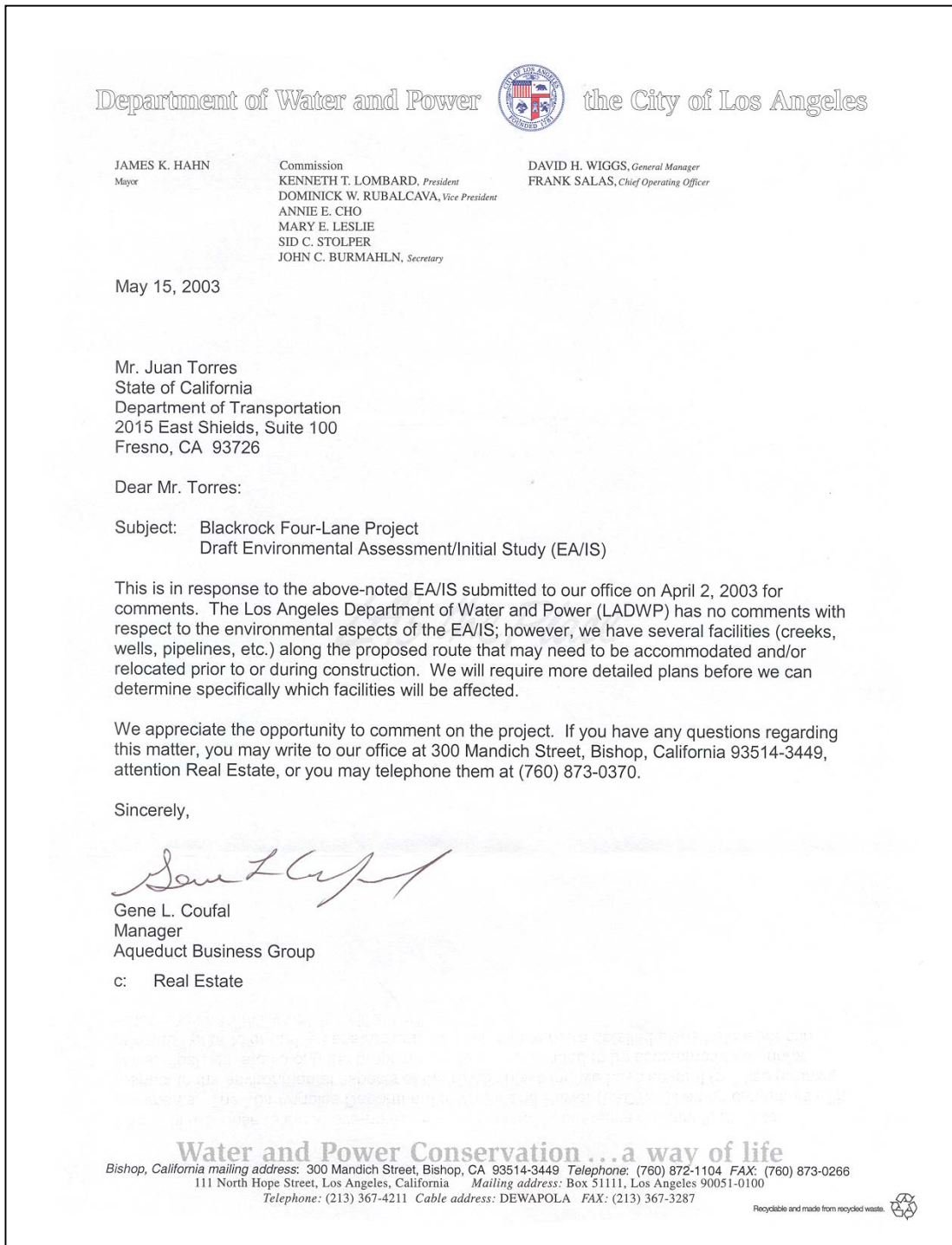


Figure 7.1 Comment letter from Los Angeles Department of Water and Power

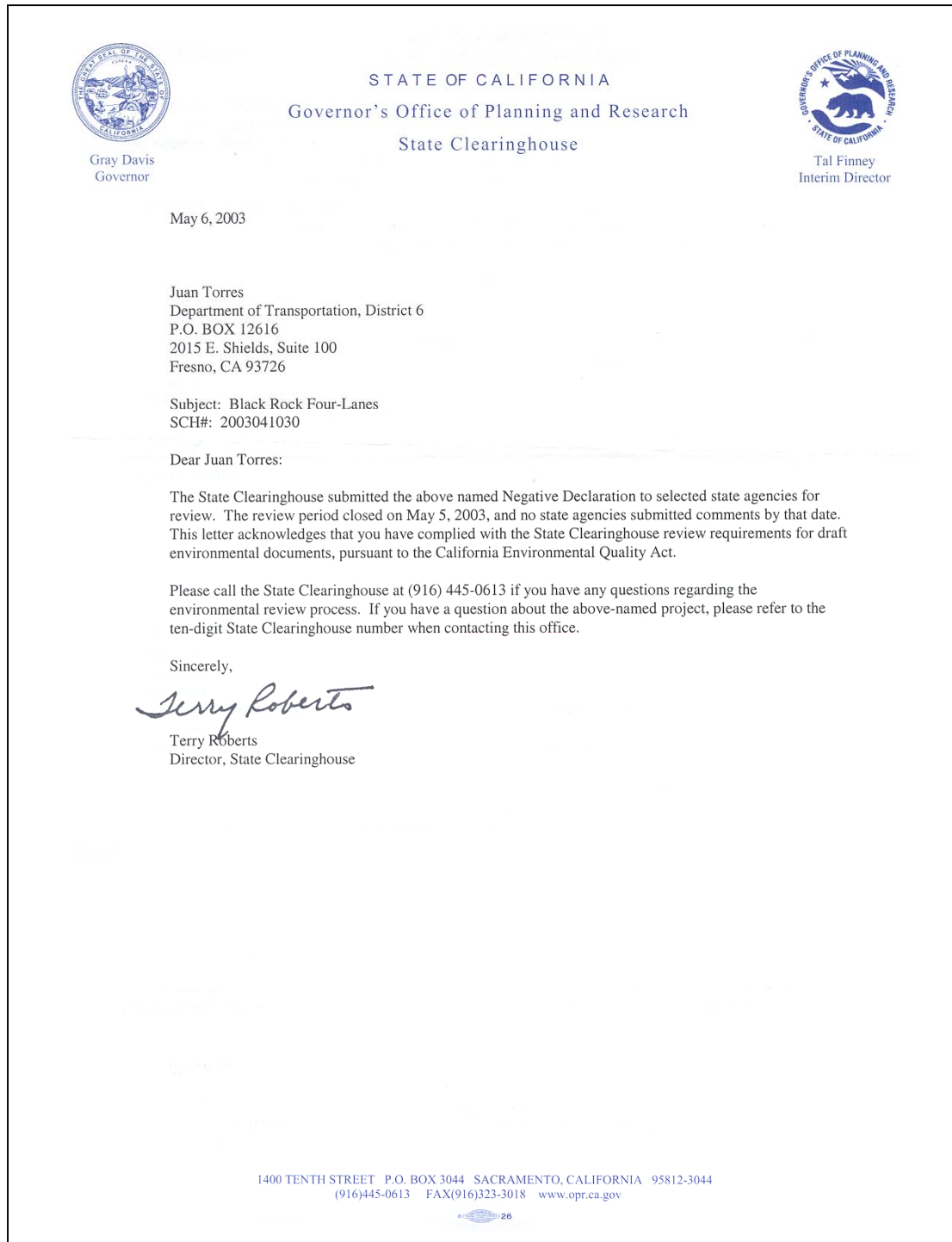


Figure 7.2 State Clearinghouse Compliance Letter



Chapter 8 Mitigation Summary

This chapter summarizes all of the mitigation measures committed to in previous sections of this document. Included is the page number where each is discussed in greater detail within the document.

Visual

- Replanting/seeding indigenous plant species where vegetation is lost (page 22).
- Duff removed from graded areas to be stockpiled and replaced on the finished grade to return the native seed stock (page 22).
- Cuts and fills would be graded to blend with the surrounding landforms (page 22).
- Contour-grading and slope rounding at the top of cuts and bottom of fills (page 22).
- Slope gradients of 3 to 1 or flatter should be used to allow moisture to be absorbed and to slow runoff (page 22).
- Preservation of natural rock outcroppings where traffic safety is not compromised (page 22).

Air Quality

- Standard Specifications pertaining to dust control and dust palliative requirement are part of all construction contracts and should effectively reduce and control impacts during construction. The contractor is also required to comply with the local air district's rules, ordinances, and regulations (pages 23 and 53).

Biological

- Habitat – Caltrans Standard Duff Provisions would be applied to the project in efforts to mitigate temporary and permanent impacts to natural vegetation. Areas of temporary disturbance would be re-vegetated using species native to the area (page 26).
- Riparian – Riparian areas would be re-vegetated in accordance with replacement ratios outlined within the 1601 Streambed Alteration Agreement to be obtained prior to construction (page 27).
- Botanical Management Area – Preserve the topography and vegetation of the future median as much as possible. Construction road crossings, unless absolutely necessary, would not be built within the limits of the Botanical Management Area

(page 27). Persistent application of the Site-Specific Management Plan for the Division Creek Botanical Management Area would minimize any construction-related impacts to the Botanical Management Area, while preserving the visual qualities of this portion of U.S. Highway 395 (pages 27-29).

Cultural

- When possible, avoidance was implemented. The project impact to the historic/prehistoric sites would be mitigated under the terms of a Memorandum of Agreement/Data Treatment Plan. The Findings of Adverse Effect describes the establishment of Environmentally Sensitive Areas, as well as data recovery excavations with associated reporting, publication of findings, and public outreach (pages 42-44).

Water Quality

- Under the terms outlined by the Caltrans Statewide National Pollutant Discharge Elimination System Permit, a Storm Water Pollution Prevention Plan is to be prepared and implemented during construction to the satisfaction of the resident engineer. The plan would address and delineate in detail how the contractor intends to alleviate potential impacts to water quality during construction (pages 46-48).

“Other Waters” of the United States

To compensate for any loss of habitat or value to the existing waterways and associated riparian vegetation, a combination of invasive species eradication, habitat enhancement, and preservation of existing habitat would be used (page 52).

- A Clean Water Act Section 401, Water Quality Certification, would be obtained from the Regional Water Quality Control Board (page 52).
- Clean Water Act Section 404 Permit. Based on specifications provided by the project engineer, the project would be within the threshold of a Nationwide Permit #14 Road Crossings and #33 Temporary Construction and Access (page 52).
- A Section 1601 Streambed Alteration Agreement would be obtained from the California Department of Fish and Game. Riparian areas would be re-vegetated in accordance with the 1601 Streambed Alteration Agreement to be obtained prior to construction (page 52).

Appendix A Environmental Checklist

One of the basic purposes of the California Environmental Quality Act (CEQA) is to inform state, regional and local governmental decision-makers and the public of impacts of proposed activities, and in particular, those impacts that are either significant or potentially significant.

Determining and documenting whether an activity may have a significant effect on the environment is a critical step in the CEQA process. The following CEQA Environmental Significance Checklist is used to identify and evaluate any potential impacts from the proposed activity on physical, biological, social and economic resources. This checklist is not a National Environmental Policy Act (NEPA) requirement.

Differences do exist in the way impacts are addressed in CEQA environmental documents as compared to NEPA environmental documents. While CEQA requires that environmental documents state a determination of significant or potentially significant impacts, as has been done in the following CEQA checklist, NEPA does not. Having to address significant or potentially significant impacts in joint CEQA and NEPA environmental documents can be confusing especially in those instances where the two laws and implementing regulations have different thresholds of significance.

Under NEPA, the degree to which a resource is affected is only used to determine whether a NEPA Environmental Impact Statement (EIS) or some lower level of NEPA documentation would be required. Under NEPA, once the federal agency has determined the magnitude of the project impacts and the level of environmental documentation required, it is the magnitude of the impact that is evaluated in the environmental document and no judgment of its degree of significance is deemed important in the document text. For the purpose of the impact discussion in this document, determination of significant or potentially significant impacts is made only in the context of CEQA. Although not explicitly identified in this document, impacts in the context of NEPA can be assumed to be minimal or non-existent.

Based on the results of the technical studies, it has been determined that the appropriate level of CEQA environmental documentation for this project is an Initial Study/Negative Declaration.

The following checklist identifies physical, biological, social and economic factors that might be affected by the proposed project. The CEQA impact levels include potentially significant impact, less than significant impact with mitigation, less than significant impact, and no impact. Please refer to the following for detailed discussions regarding impacts:

CEQA:

- Guidance: Title 14, Chapter 3, California Code of Regulations, Sections 15000 et seq. (http://www.ceres.ca.gov/topic/env_law/ceqa/guidelines/)
- Statutes: Division 13, California Public Resource Code, Sections 21000-21178.1 (http://www.ceres.ca.gov/topic/env_law/ceqa/stat/)

In many cases, background studies performed in connection with the project indicate no impacts. A check in the “no impact” column on the checklist reflects this determination under CEQA.

CEQA			
Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact

AESTHETICS - Would the project:

- | | | | | |
|--|--------------------------|-------------------------------------|--------------------------|-------------------------------------|
| a) Have a substantial adverse effect on a scenic vista? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

AGRICULTURE RESOURCES - In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

AIR QUALITY - Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

- | | | | | |
|--|--------------------------|-------------------------------------|--------------------------|-------------------------------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

CEQA			
Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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d) Expose sensitive receptors to substantial pollutant concentrations?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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e) Create objectionable odors affecting a substantial number of people?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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BIOLOGICAL RESOURCES - Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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CULTURAL RESOURCES - Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

CEQA			
Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact

- | | | | | |
|---|--------------------------|-------------------------------------|-------------------------------------|--------------------------|
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| d) Disturb any human remains, including those interred outside of formal cemeteries? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

GEOLOGY AND SOILS - Would the project:

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ii) Strong seismic ground shaking? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| iii) Seismic-related ground failure, including liquefaction? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| iv) Landslides? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Result in substantial soil erosion or the loss of topsoil? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

HAZARDS AND HAZARDOUS MATERIALS -

Would the project:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

CEQA			
Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

HYDROLOGY AND WATER QUALITY - Would the project:

a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CEQA			
Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

LAND USE AND PLANNING - Would the project:

a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

MINERAL RESOURCES - Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

CEQA			
Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact

NOISE - Would the project result in:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

POPULATION AND HOUSING - Would the project:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

PUBLIC SERVICES -

- a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

CEQA			
Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact

Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

RECREATION -

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

TRANSPORTATION/TRAFFIC - Would the project:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

CEQA			
Potentially significant impact	Less than significant impact with mitigation	Less than significant impact	No impact

UTILITIES AND SERVICE SYSTEMS - Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

MANDATORY FINDINGS OF SIGNIFICANCE -

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Appendix B Coordination and Consultation

The following agencies and organizations were consulted and coordinated with during the project development:

- **Bureau of Land Management.** Formal and informal consultation with the Bureau of Land Management has been initiated and maintained through all stages of the cultural resources identification/evaluation efforts.
- **California Department of Fish and Game.** Caltrans entered into consultation with the department regarding the proposed project impacts upon California listed species. A 1601 Streambed Alteration Agreement would be needed for construction activities near Division Creek and Taboose Creek to ensure maximum protection of riparian habitats affected by the proposed project.
- **City of Los Angeles Department of Water and Power.** The Department of Water and Power has been informed of the proposed project chiefly through Caltrans engineering staff, who have actively consulted with the department regarding engineering issues, such as the relocation of such features as the Department of Water and Power wells and access roads. Permission to excavate archaeological sites on the department's lands was obtained by Caltrans Right-of-Way staff.
- **Eastern California Museum in Independence.** A letter from Caltrans informed the museum directors of the proposed project and requested that they share any concerns they may have regarding the effects of the proposed project on historic-period resources. A second letter shared the findings of inventory studies, and similarly requested comments or concerns regarding the effects of the proposed project on historic-period resources.
- **Native American Coordination.** Documentation of Native American coordination between the Ft. Independence Indian Reservation and the Big Pine Paiute Tribe of the Owens Valley is provided in the Archaeological Survey Report and the Phase II Report for the Aberdeen/Black Rock Four-Lane Project. A proposed data recovery program would be implemented in accordance with a Memorandum of Agreement among the Federal Highway Administration and the California State Historic Preservation Officer. The Memorandum of Agreement

would stipulate that Native Americans be afforded the opportunity to monitor archaeological investigations.

- **Native American Heritage Commission and the Inyo County Coroner's Office.** After human remains were encountered, the commission and the coroner's office were notified to assign a Most Likely Descendent to the project.
- **Regional Water Quality Control Board.** Under the Clean Water Act (401), the Regional Water Quality Control Board has jurisdiction over construction activities adjacent to the waterways.
- **State Historic Preservation Officer.** Appendix E contains concurrence pursuant to the National Historic Preservation Act that cultural studies were adequate and that archaeological sites CA-INY-5267, CA-INY-5273/H, CA-INY-5275/H, CA-INY-5276, CA-INY-5281, CA-INY-5285/H, CA-INY-5873/H, CA-INY-5874, CA-INY-5875, CA-INY-5876, CA-INY-5877, CA-INY-3796, CA-INY-5277, CA-INY-5278, CA-INY-5812H, CA-INY-5871, and CA-INY-5884 were determined to be eligible for the National Register of Historic Places.
- **U.S. Army Corps of Engineers.** Under the Clean Water Act, the impacts of the proposed project to jurisdictional waters of the U.S. would be covered under Nationwide Permits 14 (Linear Transportation Crossings) and 33 (Temporary Construction, Access, Dewatering).
- **U.S. Fish and Wildlife Service.** The service provided a list of federally listed, proposed, and candidate species that may occur in the Independence, Black Rock, and Tinemaha Reservoir Quads in Inyo County, California.
- **Public Circulation and Comment.** The draft environmental document was made available to the public for review and comment. A Public Notice announcing the availability of the document for review was published on April 8, 2003 and May 13, 2003 in *The Inyo Register*, the newspaper serving the communities of Inyo County. The comment period ended May 21, 2003. Copies of the document were placed at the County Library in Independence, California. The document was also circulated to selected state agencies by the Office of Planning and Research; none offered any comments. No comments were received regarding the environmental document during the comment period.

- **Public Information Meeting.** A public information meeting was held in Independence, California, the evening of February 10, 2003. The event was held in an effort to keep local community members informed of future developments within Inyo County. The Black Rock Four-Lane project was presented with two other Caltrans projects proposed for Inyo County. Community members were allowed to view mapping, ask questions, and speak to project engineers. No concerns were raised that evening regarding the Black Rock Four-Lane project.



Appendix C Title VI Policy Statement

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE DIRECTOR
1120 N STREET
P. O. BOX 942873
SACRAMENTO, CA 94273-0001
PHONE (916) 654-5267
FAX (916) 654-6608



July 26, 2000

TITLE VI POLICY STATEMENT

The California State Department of Transportation under Title VI of the Civil Rights Act of 1964 and related statutes, ensures that no person in the State of California shall, on the grounds of race, color, sex and national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity it administers.

A handwritten signature in black ink that reads "Jeff Morales".

JEFF MORALES
Director



Appendix D USFWS Species List



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

In Reply, Refer To: 2003.1021

January 9, 2003

David A. Armes
Environmental Division Central Region Biology Branch
California Department of Transportation
2015 E. Shields, Suite 100
Fresno, California 93726

Subject: Species Lists for U.S. Geological Survey Quadrangles: Black Rock, Independence, and Tinemaha Reservoir of Inyo County, California

Dear Mr. Armes:

This letter is in response to your request, which was received by us on December 3, 2002, for information on federally listed, proposed, or candidate species which may be present in or around the following 7.5-minute U.S. Geological Survey quadrangle maps: Black Rock, Independence, and Tinemaha Reservoir of Inyo County, California. California Department of Transportation, with funding from the Federal Highway Administration (FHWA), proposes to widen existing roadways in various locations from two lanes to four lanes.

The enclosed list of species fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Act. The FHWA, as the lead agency for the project, has the responsibility to review its proposed activities and determine whether any listed species may be affected. If the project is a construction project^{1/} which may require an environmental impact statement, the FHWA has the responsibility to prepare a biological assessment to make a determination of the effects of the action on the listed species or critical habitat. If the FHWA determines that a listed species or critical habitat is likely to be adversely affected, it should request, in writing through our office, formal consultation pursuant to section 7 of the Act. Informal consultation may be used to exchange information and resolve conflicts with respect to threatened or endangered species or their critical habitat prior to a written request for formal consultation. During this review process, the FHWA may engage in planning efforts but may not make any irreversible commitment of resources. Such a commitment could constitute a violation of section 7(d) of the Act.

^{1/} "Construction project" means any major Federal action which significantly affects the quality of the human environment designed primarily to result in the building of structures such as dams, buildings, roads, pipelines, and channels. This includes Federal actions such as permits, grants, licenses, or other forms of Federal authorizations or approval which may result in construction.

David A. Armes

2

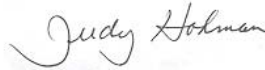
Federal agencies are required to confer with the Service, pursuant to section 7(a)(4) of the Act, when an agency action is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat (50 CFR 402.10(a)). A request for formal conference must be in writing and should include the same information that would be provided for a request for formal consultation. Conferences can also include discussions between the Service and the Federal agency to identify and resolve potential conflicts between an action and proposed species or proposed critical habitat early in the decision-making process. The Service recommends ways to minimize or avoid adverse effects of the action. These recommendations are advisory because the jeopardy prohibition of section 7(a)(2) of the Act does not apply until the species is listed or the proposed critical habitat is designated. The conference process fulfills the need to inform Federal agencies of possible steps that an agency might take at an early stage to adjust its actions to avoid jeopardizing a proposed species.

Candidate species are those species presently under review by the Service for consideration for federal listing. Candidate species should be considered in the planning process because they may become listed or proposed for listing prior to project completion. Preparation of a biological assessment, as described in section 7(c) of the Act, is not required for candidate species. If early evaluation of your project indicates that it is likely to affect a candidate species, you may wish to request technical assistance from this office.

The take of candidate species is not prohibited by the Act, however, we encourage you to consider their conservation in your planning process in the event they are listed prior to project completion. For information on other species of concern that may occur in the project area, the Service recommends that you review information in the California Department of Fish and Game's (CDFG) Natural Diversity Database and that you contact CDFG at (916)324-3812.

If you have any questions, please contact Robert McMorran of my staff at (805) 644-1766.

Sincerely,



Judy Hohman
Division Chief
Mojave/Great Basin Desert

Enclosure

**ENDANGERED, THREATENED, AND PROPOSED SPECIES
THAT MAY OCCUR ON QUADS: BLACKROCK, INDEPENDENCE, AND
TINEMAHA RESERVOIR
INYO COUNTY, CALIFORNIA**

TINEMAHA RESERVOIRBirds

Bald eagle	<i>Haliaeetus leucocephalus</i>	T
Least Bell's vireo	<i>Vireo bellii pusillus</i>	E
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	E
Yellow billed cuckoo	<i>Coccyzus americanus</i>	C

Fish

Owens pupfish	<i>Cyprinodon radiosus</i>	E
Owens tui chub	<i>Gila bicolor snyderi</i>	E

INDEPENDENCEBirds

Least Bell's vireo	<i>Vireo bellii pusillus</i>	E
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	E
Yellow billed cuckoo	<i>Coccyzus americanus</i>	C

BLACKROCKBirds

Least Bell's vireo	<i>Vireo bellii pusillus</i>	E
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	E
Yellow billed cuckoo	<i>Coccyzus americanus</i>	C

Fish

Owens pupfish	<i>Cyprinodon radiosus</i>	E
Owens tui chub	<i>Gila bicolor snyderi</i>	E

Key:

- E Endangered
- T Threatened
- CH Designated critical habitat
- PE Taxa proposed for listing as endangered
- PT Taxa proposed for listing as threatened
- PCH Critical habitat proposed for designation
- C Candidate species for which the Fish and Wildlife Service has on file sufficient information on the biological vulnerability and threats to support proposals to list as endangered or threatened.

* Species for which the National Marine Fisheries Service has responsibility. For more information, call the Santa Rosa Field Office at (707) 575-6050 or go to <http://swr.ucsd.edu/>.



Appendix E State Historic Preservation Officer Concurrence Letters

STATE OF CALIFORNIA – THE RESOURCES AGENCY

GRAY DAVIS, Governor

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

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(916) 653-8824 Fax: (916) 653-8824
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13 November 2002

In Reply Refer To
FHWA010814A

Michael G. Ritchie
Division Administrator
California Division
Federal Highway Administration
980 Ninth Street, Suite 400
Sacramento, California 95814-2724

RE: HDA-CA, FILE NO. 09-INY-395-77.3/91.6, DOCUMENT NO. P40679 [FURTHER SECTION
106 CONSULTATION ON THE ABERDEEN-BLACKROCK FOUR-LANE PROJECT, U.S.
HIGHWAY 395, INYO COUNTY]

Dear Mr. Ritchie,

This letter is a response to your submission of the May 2002 *Supplemental Historic Property Survey Report for the Aberdeen-Blackrock Four-Lane Project on Route 395, Inyo County, California* (Supplemental HPSR). My comments on the submission here are made pursuant to 36 CFR Part 800, the regulations that implement Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), as amended.

You request in your 9 July 2002 cover letter for the submission that I concur that the FHWA's determination of the area of potential effects (APE) for the subject undertaking and the agency's efforts to identify historic properties in that APE are adequate. You further request that I concur with the FHWA's determinations on the eligibility of 36 of the 37 properties that the agency identifies in the APE for inclusion in the National Register of Historic Places (National Register).

I am now able to concur that the FHWA's revision to the undertaking's APE in the Supplemental HPSR constitutes an adequate effort to comply with 36 CFR 800.4(a)(1). I understand the statement on page 3 of the Supplemental HPSR that "the cultural resources APE ... has been expanded in this HPSR to include the entire site boundaries of all archaeological sites lying within or partially within the APE" to be the sole content of that revision.

I concur that the FHWA's effort to identify historic properties in the APE is adequate pursuant to 36 CFR § 800.4(b).

I concur with the FHWA's determinations that

MICHAEL G. RITCHIE
13 NOVEMBER 2002
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F-WA010814A

CA-Iny-5267
CA-Iny-5273/H
CA-Iny-5275/H
CA-Iny-5276
CA-Iny-5281

CA-Iny-5285/H
CA-Iny-5873/H
CA-Iny-5874
CA-Iny-5875
CA-Iny-5877

are eligible for inclusion in the National Register.

I understand, on the basis of a recent (8 November 2002) email to me from FHWA Environmental Specialist Gary Sweeten, that the FHWA would like to change the agency's original 9 July 2002 National Register determination for CA-Iny-5876 of not eligible for inclusion in the National Register to eligible for inclusion in the National Register for the purposes of the present undertaking. I concur with the FHWA's latter determination.

I acknowledge the prior 16 April 1991 consensus determination [Office of Historic Preservation (OHP) File No. BLM910313A] that CA-Iny-3794 is not eligible for inclusion in the National Register. I further acknowledge a recent 30 October 2002 consensus determination (OHP File No. FHWA010814A) that CA-Iny-4590H, the Inyo County Wagon Road, is not eligible for inclusion in the National Register.

I concur with the FHWA's determinations that

CA-Iny-3795
CA-Iny-4773/H
CA-Iny-4786
CA-Iny-5268
CA-Iny-5269
CA-Iny-5271
CA-Iny-5272
CA-Iny-5274/H
CA-Iny-5280

CA-Iny-5282
CA-Iny-5872
CA-Iny-5283H
CA-Iny-5284H
CA-Iny-5813H
CA-Iny-5814H
P-14-6902
P-14-6903

are not eligible for inclusion in the National Register.

I further concur with the FHWA's determination under the Interim Agreement to the 20 December 1989 *Memorandum of Understanding Regarding Evaluation of Post-1945 Buildings, Moved Pre-1945 Buildings, and Altered Pre-1945 Buildings* that the Division Creek Rest-stop is not eligible for inclusion in the National Register.

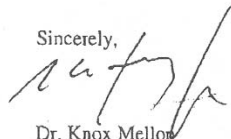
I am unable to concur at the present time with the FHWA's determinations that CA-Iny-3796, CA-Iny-5277, CA-Iny-5278, CA-Iny-5812H, CA-Iny-5871, and CA-Iny-5884 are not eligible for inclusion in the National Register. The evaluations of these properties in the HPSR do not provide sufficient information for me to comment on the National Register eligibility of each whole property. I recommend that the FHWA assume that the cited properties are eligible for inclusion in the National Register for the purposes of the present undertaking. If the FHWA is able to agree with this recommendation, please sign the signature block below to formally indicate such agreement, and, at your convenience, return a signed copy of the block to me for my files.

MICHAEL G. RITCHIE
13 NOVEMBER 2002
PAGE 3 of 3

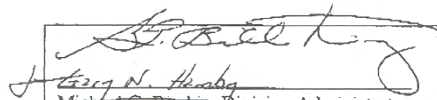
FHWA010614A

Please direct any questions or concerns that you may have to Project Review Unit archaeologist Mike McGuirt at 916.653.8920 or at mmcguirt@ohp.parks.ca.gov.

Sincerely,



Dr. Knox Mellon
State Historic Preservation Officer


Date 11-27-02
Michael G. Ritchie, Division Administrator
California Division, Federal Highway Administration

WKM:mdm

STATE OF CALIFORNIA – THE RESOURCES AGENCY

GRAY DAVIS, Governor

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

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29 October 2003

In Reply Refer To
FHWA010814A

Gary N. Hamby
Division Administrator
California Division
Federal Highway Administration
650 Capitol Mall, Suite 4-100
Sacramento, California 95814

RE: HDA-CA, FILE NO. 09-INY-395-77.3/91.6, DOCUMENT NO. P40679 [FURTHER SECTION 106
CONSULTATION ON THE ABERDEEN-BLACKROCK FOUR-LANE PROJECT, U.S. HIGHWAY
395, INYO COUNTY]

Dear Mr. Hamby,

This letter is a response to your request that I review and comment on the April 2003 *Finding of Adverse Effect: Aberdeen-Blackrock Four-Lane Project, Route 395, Inyo County, California* (Finding of Effect), the September 2001 *Data Recovery Plan for Six Archaeological Sites along the Aberdeen-Blackrock Four-Lane Project on Highway 395, Inyo County, California* (Treatment Plan), and the 18 April 2003 draft *Memorandum of Agreement between the Federal Highway Administration and the California State Historic Preservation Officer Regarding the Aberdeen-Blackrock Four-Lane Project on U.S. Route 395 in Inyo County, California* (Draft MOA). Your request and my comment on the documents here are made pursuant to 36 CFR Part 800, the regulations that implement Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), as amended.

On the basis of the information that the Federal Highway Administration (FHWA) provides in the Finding of Effect, I concur with the agency's finding (p. 14), pursuant to 36 CFR § 800.5(d)(2), that the undertaking, as presently proposed, will adversely affect historic properties.

The treatments that the FHWA proposes in the Finding of Effect and the Treatment Plan to resolve the undertaking's adverse effect, pursuant to 36 CFR § 800.6(b), are predicated on determinations that the agency has made with regard to which "elements" or "portions" of each historic property in the undertaking's area of potential effects (APE) would or would not contribute to the respective eligibility of each such property for inclusion in the National Register of Historic Places (National Register).

The FHWA has made explicit determinations (contributing/non-contributing) for the constituent deposits of the archaeological sites in the undertaking's APE that the FHWA and I agree are in their entirety eligible for the National Register. The only documentation from the FHWA that I can find to clarify the agency's rationale for these determinations on the constituent deposits is the 6.3 *Site-Specific National Register Discussions* section of the May 2001 *Preliminary Report on Phase II Investigations at 26 Archaeological Sites for the Aberdeen-Blackrock Four-Lane Project on Highway 395, Inyo County, California* (Preliminary Phase II Report). The maps that accompany that report section depict archaeological deposits for each National Register-eligible property in the undertaking's APE for which there is a consensus determination as "NRHP [National Register of Historic Places] Contributing Elements," "Non-contributing Elements, or "unknown as NRHP contributing elements." The text of that section provides lean explanations for these determinations.

APR 19 2003

GARY N. HAMBY
29 OCTOBER 2003
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FHWA010814A

The FHWA has also made implicit determinations (contributing/non-contributing) for the constituent deposits of the historic properties that the agency chose to consider as eligible for inclusion in the National Register for the purposes of the present undertaking. In the series of maps that accompany the Finding of Effect document (Figures 4.1-4.18), there is a note on the maps for these properties that reads, in part, "contributing and non-contributing portions not differentiated here because site originally recommended as not eligible. All portions outside of APE [This should, I believe, read "ADI" for area of direct impact.] would be protected by proposed ESA." This statement acts as a de facto determination that the constituent archaeological deposits of the historic properties in the undertaking's ADI that the FHWA chose to consider as National Register-eligible **do not contribute**, respectively, to the National Register status of each property, because the FHWA is choosing to expose those deposits to the physical damage that will occur as a result of the undertaking's implementation.

The FHWA has not yet asked me to comment on the foregoing [explicit or implicit] determinations as an aspect of our consultation under 36 CFR § 800.4(c)(1). FHWA should formally request my comment on the determinations that the agency has made on whether the constituent deposits that compose the 17 National Register-eligible archaeological sites in the undertaking's APE contribute, respectively, to the each site's status as an historic property. In reviewing the documentation that I have at hand for this undertaking, I find that I would require further information on 10 of the subject sites in order to provide such comment. I would need additional information on CA-Iny-5267, CA-Iny-5273/H, CA-Iny-5275/H, CA-Iny-5276, CA-Iny-5281, CA-Iny-5873/H, CA-Iny-5875, CA-Iny-5877, CA-Iny-5876 and CA-Iny-5884. I recommend using the basic format of the 6.3 *Site-Specific National Register Discussions* section of the Preliminary Phase II Report to more fully articulate the rationale behind the agency's National Register determinations (contributing/non-contributing) for the subject constituent archaeological deposits of those 10 sites. I believe it would be appropriate to this level of property evaluation to precisely delineate and provide designations for the individual constituent deposits of the 10 sites in order to more easily reference and discuss them. In anticipation of our eventual consultation on the Treatment Plan, I would like to further suggest that for the subset of these 10 archaeological sites where the agency currently shows constituent deposits to be in the undertaking's ADI and "unknown as NRHP contributing elements," the FHWA make National Register determinations for such deposits, or include the study of those deposits in the data recovery plans for the deposits' respective archaeological sites.

I would be pleased to meet with FHWA and Caltrans staff to discuss, clarify and expand on the foregoing comments as necessary in order to move this consultation forward toward a mutually acceptable conclusion. Please direct any questions or concerns that you may have to Project Review Unit archaeologist Mike McGuirt at 916.653.8920 or at mmcguirt@ohp.parks.ca.gov.

Sincerely,



Dr. Knox Mellon
State Historic Preservation Officer

WKM:mdm

Appendix F Memorandum of Agreement

MEMORANDUM OF AGREEMENT

BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER REGARDING THE ABERDEEN-BLACKROCK FOUR-LANE PROJECT ON U.S. ROUTE 395 IN INYO COUNTY, CALIFORNIA

Whereas, the Federal Highway Administration (FHWA) has determined that the Aberdeen-Blackrock Four-Lane Project (Undertaking), which is described in Attachment 2 to this Memorandum of Agreement (MOA), on Highway 395 in Inyo County, California, will have an adverse effect upon archaeological sites CA-INY-5267, -5273/H, -5275/H, -5276, -5873/H, and -5877, and may have an adverse effect on CA-INY-3796, -5277, -5278, -5281, -5285/H, -5812H, -5871, -5874, -5875, -5876, and -5884, properties determined, by consensus, to be eligible for inclusion in the National Register of Historic Places (NRHP)(historic properties); and

Whereas, FHWA has consulted with the California State Historic Preservation Officer (SHPO), and notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect finding, in accordance with 36 CFR 800, regulations effective January 11, 2001, implementing Section 106 of the National Historic Preservation Act, as amended, (16 U.S.C. 470f) (NHPA); and

Whereas, FHWA in consultation with the SHPO, has thoroughly considered alternatives, has determined that adverse effects to prehistoric archaeological sites CA-INY-5267, -5273/H, -5275/H, -5276, -5873/H, and -5877 cannot be avoided, and has further determined that it is in the public interest to take the Undertaking's effects on these sites into account through the recovery of significant information from these sites, as set forth in stipulation IV.C. of this Memorandum of Agreement (MOA); and

Whereas, FHWA, in consultation with the SHPO, has determined that the potentially adverse effects of the Undertaking on CA-INY-3796, -5277, -5278, -5281, -5285/H, -5812H, -5871, -5874, -5875, -5876, and -5884 will be taken into account by implementation of the measures set forth in stipulation IV.A.- B. inclusive, of this MOA, ensuring that the Undertaking will not adversely affect these historic properties; and

WHEREAS, The California Department of Transportation (Department) participated in the consultation and has been invited to concur in this MOA; and

WHEREAS, FHWA has consulted with the Big Pine Paiute Band of Owens Valley and the Fort Independence Community of Paiute Tribe (Tribes) regarding the proposed Undertaking and its effect on historic properties, will continue to consult with the Tribes, and will afford the Tribes, should the Tribes so desire, with the opportunity to participate in the implementation of this MOA and of the Undertaking;

Now, therefore, FHWA and the SHPO agree that if the Undertaking proceeds, the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties, and further agree that these stipulations shall govern the Undertaking and all of its parts until this MOA expires or is terminated.

47 **STIPULATIONS**

48
49 FHWA, in cooperation with the Department, shall ensure that the following stipulations are
50 carried out:

51
52 **I. DEFINITIONS**

53
54 The definitions provided at 36 CFR 800.16 are applicable throughout this MOA.

55
56 **II. PROFESSIONAL QUALIFICATIONS AND STANDARDS**

57
58 **A. Professional Qualifications.** FHWA shall ensure that all activities prescribed by
59 stipulations IV., V. and VI. of this MOA conducted by or under the direct supervision of a
60 person or persons meeting, at a minimum, the Secretary of Interior's Professional Qualifications
61 Standards (PQS) in the discipline of archaeology (48 FR 44738-44739). However, nothing in
62 this stipulation may be interpreted to preclude FHWA and the Department or any agent or
63 contractor thereof from using the properly supervised services of persons who do not meet the
64 PQS.

65
66 **B. Documentation Standards.** FHWA shall ensure that documentation prepared in partial
67 fulfillment of the stipulations in this MOA is consistent with the *Secretary of the Interior's*
68 *Standards for Archaeological Documentation* and the *Secretary of the Interior's Guidelines for*
69 *Archaeological Documentation* (48 FR 44734-44737), and with the California Office of Historic
70 Preservation's December 1989 *Archaeological Resource Management Reports (ARMR):*
71 *Recommended Contents and Format* (Preservation Planning Bulletin No. 4[a]).

72
73 **C. Curation and Curation Standards.** FHWA shall ensure that, to the extent permitted under
74 §§ 5097.98. and 5097.991. of the California Public Resources Code, the materials and records
75 resulting from the activities prescribed by stipulations IV., V., and VI. of this MOA are curated
76 in accordance with 36 CFR Part 79.

77
78 **III. AREA OF POTENTIAL EFFECTS**

79
80 FHWA and the SHPO agree that the Undertaking's Area of Potential Effects (APE) is the
81 Department's right-of-way for Highway 95 from postmile 77.3 to 91.6 in Inyo County, and the
82 temporary construction easements and property acquisitions requisite to the implementation of
83 the Undertaking. Attachment 1 consists of maps that depict: (1) the undertaking's APE, as
84 described above; and (2) Areas of Direct Impact (as determined by the actual engineering and
85 construction needs of the Undertaking) at the locations of historic properties.

86
87 **IV. TREATMENT OF HISTORIC PROPERTIES**

88
89 **A. Complete Avoidance and Protection of CA-INY-5281, -5874, -5876, and -5884.** The
90 Undertaking has the potential to inadvertently and adversely affect CA-INY-5281, -5874, -5876,
91 and -5884. In order to eliminate this potential, the FHWA shall ensure that the Department

92 protects these historic properties by identifying them as Environmentally Sensitive Areas
 93 (ESAs), which shall be described in information included in the final construction plans for the
 94 Undertaking, and by enclosing them with temporary fencing. The FHWA shall further ensure
 95 that: (1) construction activities within 50 feet of these sites shall be monitored by an
 96 archaeologist and Native American monitor; and (2) the integrity of the fencelines as installed
 97 will be monitored by a Department archaeologist meeting the PQS identified in stipulation II.A,
 98 or by an agent or contractor thereof as described in stipulation II.A, throughout the duration of
 99 construction activities in the site vicinities.

100
 101 **B. Avoidance of Adverse Effects to Contributing Portions of CA-INY-3796, -5267, -5273/H,**
 102 **-5275, -5276, -5277, -5278, -5285/H, -5812H, -5871, -5873/H, and -5875 .** The Undertaking
 103 has the potential to inadvertently and adversely affect archaeological deposits contributing to the
 104 NRHP eligibility (contributing deposits) of CA-INY-3796, -5267, -5273/H, -5275, -5276, -5277,
 105 -5278, -5285/H, -5812H, -5871, -5873/H, and -5875. In order to eliminate or minimize this
 106 potential, FHWA shall ensure that the Department protects these contributing deposits by
 107 identifying them as ESAs, which shall be described in information included in the final construction
 108 plans for the Undertaking, and by enclosing these contributing deposits with a temporary fence.
 109 The FHWA shall further ensure that: (1) construction activities within 50 feet of known site
 110 boundaries shall be monitored by an archaeologist and Native American monitor; and (2) the
 111 integrity of the fenceline as installed will be monitored by a Department archaeologist meeting
 112 the PQS identified in stipulation II.A, throughout the duration of construction activities in the
 113 vicinity of these sites.

114
 115 **C. Resolution of Adverse Effects through Data Recovery for CA-INY-5267, -5273/H, -**
 116 **-5275/H, -5276, -5873/H, and -5877.** FHWA shall ensure that the September 2001 *Data*
 117 *Recovery Plan for Six Archaeological Sites Along the Aberdeen-Blackrock Four-Lane Project on*
 118 *Highway 395, Inyo County, California* and the December 2003 *Addendum Data Recovery Plan*
 119 *for Six Archaeological Sites Along the Aberdeen-Blackrock Four-Lane Project on Highway 395,*
 120 *Inyo County, California* (DRPs) that are Attachments 2 and 3 to this MOA, are implemented and
 121 completed by the Department to take into account the effects of this Undertaking on CA-INY-
 122 5267, -5273/H, -5275/H, -5276, -5873/H, and -5877.

123
 124 D. FHWA will not authorize any Undertaking-related activity that it determines could result in
 125 an adverse effect to CA-INY-5267, -5273/H, -5275/H, -5276, -5873/H, and -5877 to proceed
 126 until the fieldwork portion of the requirements set forth in paragraph C. of this stipulation have
 127 been completed.

128
 129 E. Amendment of the DRPs as set forth hereunder will not require amendment of this MOA.

130 131 **V. REPORTING REQUIREMENTS**

132
 133 A. Within 18 months after FHWA, in consultation with the Department, has determined that all
 134 fieldwork required by stipulation IV.A. - C., inclusive has been completed, FHWA will
 135 ensure that the Department prepares and concurrently distributes to the other parties and to
 136 the Tribes should the Tribes so request, a written draft technical report that documents the

137 results of implementing the requirements of Stipulation I.A. – C., inclusive. The reviewing
138 parties will be afforded 30 days following receipt of the draft technical report to submit any
139 written comments to FHWA and the Department. Failure of these parties to respond within
140 this time frame shall not preclude FHWA from directing the Department to revise the draft
141 technical report as FHWA, in consultation with the Department, may deem appropriate.
142 FHWA will provide the reviewing parties with written documentation indicating whether and
143 how the draft technical report will be modified in accordance with any reviewing party
144 comments. Unless the reviewing parties object to this documentation in writing to the FHWA
145 and the Department within 30 days following receipt, FHWA may direct the Department to
146 modify the draft technical report as FHWA, in consultation with the Department, may deem
147 appropriate. Thereafter, FHWA may direct the Department to issue the technical report in
148 final form and distribute this document in accordance with Paragraph B. of this stipulation.
149

150 B. Copies of the final technical report documenting the results of implementing the
151 requirements of Stipulation IV.A. – C., inclusive, will be distributed by the Department to the
152 other parties, to the Tribes, and to the appropriate California Historical Resources
153 Information Survey (CHRIS) Regional Information Center, subject to the terms of stipulation
154 IX.A.
155

156 C. FHWA shall ensure that the Department prepares a written draft document that
157 communicates in lay terms the results of implementing the requirements of Stipulation IV.A.
158 – C., inclusive, to members of the interested public. The Department will distribute this draft
159 document for review and comment concurrently with and in the same manner as that
160 prescribed for the draft technical report prescribed by paragraph A. of this stipulation. If the
161 draft document prescribed hereunder is a publication such as a report or brochure, then such
162 publication shall upon completion be distributed by the Department to the other parties, to
163 the Tribes, and to any other entity that the parties and the Tribes through consultation may
164 deem appropriate, subject to the terms of Stipulation IX.A.
165

166 VI. DISCOVERIES AND UNANTICIPATED EFFECTS

167
168 If FHWA determines during implementation of the DRPs or after construction of the
169 Undertaking has commenced, that either the DRPs or the Undertaking will affect a previously
170 unidentified property that may be eligible for the NRHP, or affect a known historic property in
171 an unanticipated manner, FHWA will address the discovery or unanticipated effect in accordance
172 with 36 CFR § 800.13(b)(3). The FHWA may assume the discovered property, if applicable, to
173 be eligible for the NRHP, in accordance with 36 CFR § 800.13(c).
174

175 VII. NATIVE AMERICAN CONSULTATION

176
177 FHWA has consulted with the Tribes regarding the proposed Undertaking and its effects on
178 historic properties, will continue to consult with the Tribes, and will afford the Tribes, should the
179 Tribes so desires, the opportunity to participate in the implementation of the MOA and of the
180 Undertaking. Such participation may include, but is not necessarily limited to, monitoring during
181 any archaeological fieldwork prescribed in stipulations IV. and VI., and during implementation

of the Undertaking. Should the Tribes agree to participate as herein set forth, FHWA will make an effort to reach a mutually acceptable agreement with the Tribes regarding the manner in which the Tribes will participate in the implementation of this MOA and the Undertaking, and regarding any time frames or other matters that may govern the nature, scope, and frequency of such participation.

VIII. TREATMENT OF HUMAN REMAINS OF NATIVE AMERICAN ORIGIN

The parties to this MOA agree that Native American burials and related items discovered during implementation of the terms of the MOA and of the Undertaking will be treated in accordance with the requirements of § 7050.5(b) of the California Health and Safety Code. If, pursuant to § 7050.5(c) of the California Health and Safety Code, the county coroner/medical examiner determines that the human remains are, or may be of Native American origin, then the discovery shall be treated in accordance with the provisions of § 5097.98(a)-(d) of the California Public Resources Code. FHWA will ensure that, to the extent permitted by applicable law and regulation, the views of the Tribes and the Most Likely Descendant(s) are taken into consideration when decisions are made about the disposition of other Native American archaeological materials and records.

IX. ADMINISTRATIVE PROVISIONS

A. Confidentiality. The parties to this MOA acknowledge that historic properties covered by this MOA are subject to the provision of § 304 of the National Historic Preservation Act of 1966 and § 6254.10 of the California Government Code (Public Records Act), relating to the disclosure of archaeological site information and, having so acknowledged, will ensure that all actions and documentation prescribed by this MOA are consistent with § 304 of the NHPA and § 6254.10 of the California Government Code.

B. Resolving Objections.

1. Should any party to this MOA or the Tribes object to the manner in which the terms of this MOA are implemented, to any action carried out or proposed with respect to implementation of the MOA (other than the Undertaking itself) or to any documentation prepared in accordance with and subject to the terms of this MOA, the FHWA shall immediately notify the other parties to this MOA and the Tribes of the objection and consult with the objecting party, the other parties to this MOA, and the Tribes for no more than 14 days to resolve the objection. The FHWA shall reasonably determine when this consultation will commence. If the objection is resolved through such consultation, the action in dispute may proceed in accordance with the terms of that resolution. If, after initiating such consultation, the FHWA determines that the objection cannot be resolved through consultation, the FHWA shall forward all documentation relevant to the objection to the ACHP, including the FHWA's proposed response to the objection, with the expectation that the ACHP will within thirty (30) days after receipt of such documentation:

- a. advise the FHWA that the ACHP concurs in the FHWA's proposed response to the objection, whereupon the FHWA will respond to the objection accordingly; or

- 227
228
229 b. provide the FHWA with recommendations, which the FHWA will take into account in
230 reaching a final decision regarding its response to the objection; or
231
232 c. notify the FHWA that the objection will be referred for comment pursuant to 36 CFR §
233 800.7(c), and proceed to refer the objection and comment. The FHWA shall take the
234 resulting comment into account in accordance with 36 CFR § 800.7(c)(4) and Section
235 110(1) of the NHPA.
236
237 2. Should the ACHP not exercise one of the above options within 30 days after receipt of all
238 pertinent documentation, FHWA may assume the ACHP's concurrence in its proposed
239 response to the objection.
240
241 3. FHWA shall take into account any ACHP recommendation or comment provided in
242 accordance with this stipulation with reference only to the subject of the objection. FHWA's
243 responsibility to carry out all actions under this MOA that are not the subjects of the objection
244 will remain unchanged.
245
246 4. At any time during implementation of the measures stipulated in this MOA, should an
247 objection pertaining to such implementation be raised by a member of the public, FHWA
248 shall notify the parties to the MOA and the Tribes in writing of the objection and take the
249 objection into consideration. FHWA shall consult with the objecting party and, if the
250 objecting party so requests, with the Department, the Tribes, and SHPO for no more than 15
251 days. Within ten (10) days following closure of this consultation period, FHWA will render a
252 decision regarding the objection and notify all consulting parties of its decision in writing. In
253 reaching its decision, FHWA will take into account any comments from the consulting parties
254 regarding the objection, including the objecting party. FHWA's decision regarding the
255 resolution of the objection will be final.
256
257 5. FHWA shall provide all parties to this MOA, the Tribes, the ACHP when ACHP comments
258 have been issued hereunder, and any parties that have objected pursuant to paragraph 4. of
259 section B. of this stipulation with a copy of its final written decision regarding any objection
260 addressed pursuant to this stipulation.
261
262 6. FHWA may authorize any action subject to objection under this stipulation to proceed after
263 the objection has been resolved in accordance with the terms of this stipulation.
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265 **C. Amendments.**
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267 1. Any party to this MOA or the Tribes may propose that this MOA be amended, whereupon the
268 parties to this MOA and the Tribes will consult for no more than 30 days to consider such
269 amendment. The amendment process shall comply with 36 CFR §§ 800.6(c)(1) and
270 800.6(c)(7). This MOA may be amended only upon the written agreement of the signatory parties. If
271 it is not amended, this MOA may be terminated by either signatory party in accordance with
 Stipulation IX.D., below.

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2. Attachments 2 and 3 to this MOA (DRPs) may be amended through consultation among the parties to this MOA without amending the MOA proper.
- D. Termination.**
1. If this MOA is not amended as provided for in Stipulation IX.C.1., or if either signatory party proposes termination of this MOA for other reasons, the signatory party proposing termination shall, in writing, notify the other parties to this MOA and the Tribes, explain the reasons for proposing termination, and consult with the other parties and the Tribes for at least 30 days to seek alternatives to termination. Such consultation shall not be required if FHWA proposes termination because the Undertaking no longer meets the definition set forth in 36 CFR § 800.16(y).
 2. Should such consultation result in an agreement on an alternative to termination, then the parties and the Tribes shall proceed in accordance with the terms of that agreement.
 3. Should such consultation fail, the signatory party proposing termination may terminate this MOA by promptly notifying the other parties to this MOA and the Tribes in writing. Termination hereunder shall render this MOA without further force or effect.
 4. If this MOA is terminated hereunder and if FHWA determines that the Undertaking will nonetheless proceed, then the FHWA shall either consult in accordance with 36 CFR § 800.6 to develop a new MOA or request the comments of the ACHP pursuant to 36 CFR Part 800.
- E. Duration of the MOA.**
1. Unless terminated pursuant to Stipulation IX.D., or unless it is superceded by an amended MOA, this MOA will be in effect following execution by the signatory parties until the FHWA, in consultation with the other parties to this MOA and the Tribes, determines that all of its stipulations have been satisfactorily fulfilled. Upon a determination by the FHWA that all of the terms of this MOA have been satisfactorily fulfilled, this MOA will terminate and have no further force or effect. The FHWA will promptly provide the other parties to the MOA and the Tribes with written notice of its determination and of the termination of this MOA. Following provision of such notice, this MOA will have no further force or effect.
 2. The terms of this MOA shall be satisfactorily fulfilled within 5 years following the date of execution by the SHPO. If the FHWA determines that this requirement cannot be met, the parties to this MOA and the Tribes will consult to reconsider its terms. Reconsideration may include the continuation of the MOA as originally executed, amendment, or termination. In the event of termination, the FHWA will comply with Stipulation IX.D.4. if it determines that the Undertaking will proceed notwithstanding termination of this MOA.
 3. If the Undertaking has not been implemented within seven years following execution of this MOA by SHPO, this MOA shall automatically terminate and have no further force or effect. In such event, the FHWA shall notify the other parties and the Tribes in writing and, if it

318 chooses to continue with the Undertaking, shall reinitiate review of the Undertaking in
319 accordance with 36 CFR Part 800.
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321 **F. Effective Date of this MOA.** This MOA will take effect on the date that it has been
322 executed by the SHPO.
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324 **EXECUTION** of this MOA by the FHWA and the SHPO, its transmittal by the FHWA to the
325 ACHP in accordance with 36 CFR § 800.6(b)(1)(iv), and subsequent implementation of its
326 terms, shall evidence, pursuant to 36 CFR § 800.6(c), that this MOA is an agreement with the
327 ACHP for purposes of Section 110(1) of the NHPA, and shall further evidence that the FHWA
328 has afforded the ACHP an opportunity to comment on the Undertaking and its effects on historic
329 properties, and that the FHWA has taken into account the effects of the Undertaking on historic
330 properties.
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333 **SIGNATORY PARTIES:**
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335 Federal Highway Administration
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337 
338 _____ 5/03/04
339 For Date
340 Gene K. Fong
341 Division Administrator
342 California Division
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344 California State Historic Preservation Officer
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346 
347 _____ 5/03/04
348 Stephen D. Mikesell Date
349 Acting State Historic Preservation Officer
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351
352 **CONCURRING PARTY:**
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354 California Department of Transportation
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356 
357 _____ 5/11/04
358 Thomas P. Hallenbeck Date
359 Director, District 9, Bishop
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